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Sub. S. B. No. 163

Senators Blessing, Johnson

Cosponsors: Senators DeMora, Ingram, Antonio, Blackshear, Cirino, Craig, Cutrona, Hicks-Hudson, Huffman, Landis, Lang, Manning, Patton, Reineke, Reynolds, Roegner, Romanchuk, Schaffer, Timken, Wilkin

To amend sections 1345.51, 2907.321, 2907.322, 1
2907.323, and 2913.49 and to enact sections 2
1349.13 and 1349.14 of the Revised Code to 3
require AI-generated products to have a 4
watermark, to prohibit simulated child 5
pornography, and to prohibit identity fraud 6
using a replica of a person. 7

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

Section 1. That sections 1345.51, 2907.321, 2907.322, 8
2907.323, and 2913.49 be amended and sections 1349.13 and 9
1349.14 of the Revised Code be enacted to read as follows: 10

Sec. 1345.51. There is hereby created in the state 11
treasury the consumer protection enforcement fund. The fund 12
shall include civil penalties ordered pursuant to divisions (A) 13
and (D) of section 1345.07 of the Revised Code and paid as 14
provided in division (G) of that section, all civil penalties 15
ordered pursuant to division (F) of section 1349.13 of the 16
Revised Code, all civil penalties assessed under division (A) of 17
section 1349.192 of the Revised Code, all costs awarded to the 18

attorney general and all penalties imposed under section 4549.48 19
of the Revised Code, and all money unclaimed under section 20
4549.50 of the Revised Code. The money in the consumer 21
protection enforcement fund shall be used for the sole purpose 22
of paying expenses incurred by the consumer protection section 23
of the office of the attorney general. 24

Sec. 1349.13. (A) As used in this section and section 25
1349.14 of the Revised Code: 26

(1) (a) "Covered provider" means a person or entity that 27
creates, codes, or otherwise produces a generative artificial 28
intelligence system that is publicly accessible by consumers 29
within the state for personal use. 30

(b) "Covered provider" does not include business-to- 31
business use of generative artificial intelligence systems for a 32
purpose not otherwise prohibited by law. 33

(2) "Generative artificial intelligence system" means an 34
artificial intelligence system that can generate derived 35
synthetic content, including text, images, video, and audio that 36
emulates the structure and characteristics of the system's 37
input. 38

(3) "Provenance data" means information that is embedded 39
or attached to help determine the origin of digitally generated 40
content and its history of modification. 41

(4) "Watermark" means a visible signal embedded within a 42
generative artificial intelligence system generated image or 43
video that clearly attributes the creation of such product to a 44
generative artificial intelligence system. 45

(B) (1) Generative artificial intelligence systems shall be 46
programmed to provide a distinctive watermark on any generative 47

artificial intelligence system generated image or video that 48
informs the user that the particular image or video was 49
generated using a generative artificial intelligence system. 50

(2) A covered provider shall include provenance data in 51
any content created by the covered provider's generative 52
artificial intelligence system. 53

(C) No person shall knowingly and with the intent to 54
deceive a third party remove a watermark required by this 55
section with the purpose of concealing that the product was 56
generated using a generative artificial intelligence system. 57

(D) No person shall knowingly and with the intent to 58
deceive a third party distribute content fully generated by a 59
generative artificial intelligence system with false information 60
about the authenticity of the content. 61

(E) Any person aggrieved by a violation of divisions (B) 62
to (D) this section has and may commence a civil action against 63
the violator for damages that result from the violation if both 64
of the following are met: 65

(1) The person files a complaint with the attorney general 66
requesting that the attorney general file an action under 67
division (F) of this section against the violator. 68

(2) The attorney general does not file an action against 69
the violator within six months after the date the person files 70
the complaint. 71

(F) In addition to the civil action authorized under 72
division (E) of this section, the attorney general may commence 73
a civil action against a person that violates divisions (B) to 74
(D) of this section for injunctive relief and, in the case of a 75
person that violates division (C) of this section, a civil 76

penalty of up to ten thousand dollars. All civil penalties 77
collected under this division shall be deposited to the consumer 78
protection enforcement fund created by section 1345.51 of the 79
Revised Code. 80

Sec. 1349.14. (A) (1) The attorney general may investigate 81
reasonable allegations that a person has violated divisions (B) 82
to (D) of section 1349.13 of the Revised Code. 83

(2) For this purpose, the attorney general may administer 84
oaths, subpoena witnesses, adduce evidence, and require the 85
production of relevant matter for the purposes of an 86
investigation under this section. 87

If matter that the attorney general requires to be 88
produced is located outside the state, the attorney general may 89
designate representatives, including officials of the state in 90
which the matter is located, to inspect the matter on the 91
attorney general's behalf, and the attorney general may respond 92
to similar requests from officials of other states. The person 93
subpoenaed may make the matter available to the attorney general 94
at a convenient location within the state or pay the reasonable 95
and necessary expenses for the attorney general or the attorney 96
general's representative to examine the matter at the place 97
where it is located, provided that expenses shall not be charged 98
to a party not subsequently found to have engaged in an act or 99
practice violative of divisions (B) to (D) of section 1349.13 of 100
the Revised Code. 101

(B) Within twenty days after a subpoena is served, a 102
person subpoenaed under this section may file a motion to extend 103
the return day, or to modify or quash the subpoena, stating good 104
cause, in the court of common pleas of Franklin county or any 105
other county in this state. 106

(C) A person subpoenaed under this section shall comply 107
with the terms of the subpoena, unless the parties agree to 108
modify the terms of the subpoena or unless the court has 109
modified or quashed the subpoena, extended the return day of the 110
subpoena, or issued any other order with respect to the subpoena 111
prior to its return day. 112

If a person fails without lawful excuse to obey a subpoena 113
or to produce relevant matter, the attorney general may apply to 114
the court of common pleas of Franklin county or any other county 115
in this state for an order compelling compliance. 116

(D) The attorney general may request that an individual 117
who refuses to testify or to produce relevant matter on the 118
ground that the testimony or matter may incriminate the 119
individual be ordered by the court to provide the testimony or 120
matter. With the exception of a prosecution under this section, 121
an individual who complies with a court order to provide 122
testimony or matter, after asserting a privilege against self- 123
incrimination to which the individual is entitled by law, shall 124
not be subjected to a criminal proceeding or to a civil penalty 125
or forfeiture on the basis of the testimony or matter required 126
to be disclosed or testimony or matter discovered through that 127
testimony or matter. 128

(E) The attorney general may: 129

(1) During an investigation under this section, afford, in 130
a manner considered appropriate to the attorney general, a 131
covered provider an opportunity to cease and desist from any 132
suspected violation. The attorney general may suspend such an 133
investigation during the time period that the attorney general 134
permits the covered provider to cease and desist; however, the 135
suspension of the investigation or the affording of an 136

opportunity to cease and desist shall not prejudice or prohibit 137
any further investigation by the attorney general under this 138
section. 139

(2) Terminate an investigation under this section upon 140
acceptance of a written assurance of voluntary compliance from a 141
covered provider who is suspected of a violation of divisions 142
(B) to (D) of section 1349.13 of the Revised Code. 143

Acceptance of an assurance may be conditioned upon an 144
undertaking to reimburse or to take other appropriate corrective 145
action with respect to identifiable individuals damaged by an 146
alleged violation of divisions (B) to (D) of section 1349.13 of 147
the Revised Code. An assurance of compliance given by a provider 148
is not evidence of violation of divisions (B) to (D) of section 149
1349.13 of the Revised Code. The attorney general may, at any 150
time, reopen an investigation terminated by the acceptance of an 151
assurance of voluntary compliance if the attorney general 152
believes that further proceedings are in the public interest. 153
Evidence of a violation of an assurance of voluntary compliance 154
is prima facie evidence of an act or practice in violation of 155
divisions (B) to (D) of section 1349.13 of the Revised Code, if 156
presented after the violation in an action brought under this 157
chapter. An assurance of voluntary compliance may be filed with 158
the court and if approved by the court, entered as a consent 159
judgment. 160

(F) The procedures available to the attorney general under 161
this section are cumulative and concurrent, and the exercise of 162
one procedure by the attorney general does not preclude or 163
require the exercise of any other procedure. 164

Sec. 2907.321. (A) No person, with knowledge of the 165
character of the material or performance involved, shall do any 166

of the following:	167
(1) Create, reproduce, or publish any obscene material	168
that has a minor, <u>a depiction of a purported minor, or an</u>	169
impaired person as one of its participants or portrayed	170
observers;	171
(2) Promote or advertise for sale or dissemination; sell,	172
deliver, disseminate, display, exhibit, present, rent, or	173
provide; or offer or agree to sell, deliver, disseminate,	174
display, exhibit, present, rent, or provide, any obscene	175
material that has a minor, <u>a depiction of a purported minor, or</u>	176
<u>an impaired</u> person as one of its participants or portrayed	177
observers;	178
(3) Create, direct, or produce an obscene performance that	179
has a minor, <u>a depiction of a purported minor, or an</u> impaired	180
person as one of its participants;	181
(4) Advertise or promote for presentation, present, or	182
participate in presenting an obscene performance that has a	183
minor, <u>a depiction of a purported minor, or an</u> impaired person	184
as one of its participants;	185
(5) Buy, procure, possess, or control any obscene	186
material, that has a minor, <u>a depiction of a purported minor, or</u>	187
<u>an impaired</u> person as one of its participants;	188
(6) Bring or cause to be brought into this state any	189
obscene material that has a minor, <u>a depiction of a purported</u>	190
<u>minor, or an</u> impaired person as one of its participants or	191
portrayed observers.	192
(B) (1) This section does not apply to any material or	193
performance that is sold, disseminated, displayed, possessed,	194
controlled, brought or caused to be brought into this state, or	195

presented for a bona fide medical, scientific, educational, 196
religious, governmental, judicial, or other proper purpose, by 197
or to a physician, psychologist, sociologist, scientist, 198
teacher, person pursuing bona fide studies or research, 199
librarian, member of the clergy, prosecutor, judge, or other 200
person having a proper interest in the material or performance. 201

(2) Mistake of age is not a defense to a charge under this 202
section. 203

(3) In a prosecution under this section, the trier of fact 204
may infer that a person in the material or performance involved 205
is a minor, a depiction of a purported minor, or an impaired 206
person if the material or performance, through its title, text, 207
visual representation, or otherwise, represents or depicts the 208
person as a minor, a depiction of a purported minor, or an 209
impaired person. 210

(C) Whoever violates this section is guilty of pandering 211
obscenity involving a minor, a depiction of a purported minor, 212
or an impaired person. If the offense involves a minor or a 213
depiction of a purported minor, a violation of division (A) (1), 214
(2), (3), (4), or (6) of this section is a felony of the second 215
degree. If the offense involves an impaired person, a violation 216
of division (A) (1), (2), (3), (4), or (6) of this section is a 217
felony of the third degree. A violation of division (A) (5)—of 218
this section is a felony of the fourth degree.—If the offender 219
previously has been convicted of or pleaded guilty to a 220
violation of this section or section 2907.322 or 2907.323 of the 221
Revised Code, pandering obscenity involving a minor, a depiction 222
of a purported minor, or an impaired person in violation of 223
division (A) (5) of this section is a felony of the third degree. 224

(D) As used in this section and sections 2907.322 and 225

2907.323 of the Revised Code, "impaired":	226
<u>(1) "Artificially generated depiction" means a visual</u>	227
<u>depiction of an actual person that was created or edited by</u>	228
<u>artificial intelligence or other computer-generated means and</u>	229
<u>that a reasonable person would believe depicts or represents an</u>	230
<u>actual person who is identifiable by the person's face,</u>	231
<u>likeness, or other distinguishing characteristic.</u>	232
<u>(2) "Depiction of a purported minor" means a visual</u>	233
<u>representation that appears to depict an actual minor that a</u>	234
<u>reasonable person would believe depicts or represents an actual</u>	235
<u>minor but may or may not depict an actual minor.</u>	236
<u>(3) "Impaired person" means a person whose ability to</u>	237
<u>resist or consent is substantially impaired because of a mental</u>	238
<u>or physical condition or because of advanced age, and the</u>	239
<u>offender knows or has reasonable cause to believe that the other</u>	240
<u>person's ability to resist or consent is substantially impaired</u>	241
<u>because of a mental or physical condition or because of advanced</u>	242
<u>age.</u>	243
Sec. 2907.322. (A) No person, with knowledge of the	244
character of the material or performance involved, shall do any	245
of the following:	246
(1) Create, record, photograph, film, develop, reproduce,	247
or publish any material that shows a minor, <u>an artificially</u>	248
<u>generated depiction of a minor, or an</u> impaired person	249
participating or engaging in sexual activity, masturbation, or	250
bestiality;	251
(2) Advertise for sale or dissemination, sell, distribute,	252
transport, disseminate, exhibit, or display any material that	253
shows a minor, <u>an artificially generated depiction of a minor,</u>	254

or <u>an</u> impaired person participating or engaging in sexual	255
activity, masturbation, or bestiality;	256
(3) Create, direct, or produce a performance that shows a	257
minor, <u>an artificially generated depiction of a minor, or an</u>	258
impaired person participating or engaging in sexual activity,	259
masturbation, or bestiality;	260
(4) Advertise for presentation, present, or participate in	261
presenting a performance that shows a minor, <u>an artificially</u>	262
<u>generated depiction of a minor, or an</u> impaired person	263
participating or engaging in sexual activity, masturbation, or	264
bestiality;	265
(5) Knowingly solicit, receive, purchase, exchange,	266
possess, or control any material that shows a minor, <u>an</u>	267
<u>artificially generated depiction of a minor, or an</u> impaired	268
person participating or engaging in sexual activity,	269
masturbation, or bestiality;	270
(6) Bring or cause to be brought into this state any	271
material that shows a minor, <u>an artificially generated depiction</u>	272
<u>of a minor, or an</u> impaired person participating or engaging in	273
sexual activity, masturbation, or bestiality;	274
(7) Bring, cause to be brought, or finance the bringing of	275
any minor or impaired person into or across this state with the	276
intent that the minor or impaired person engage in sexual	277
activity, masturbation, or bestiality in a performance or for	278
the purpose of producing material containing a visual	279
representation depicting the minor, <u>artificially generated</u>	280
<u>depiction of the minor, or</u> impaired person engaged in sexual	281
activity, masturbation, or bestiality.	282
(B) (1) This section does not apply to any material or	283

performance that is sold, disseminated, displayed, possessed, 284
controlled, brought or caused to be brought into this state, or 285
presented for a bona fide medical, scientific, educational, 286
religious, governmental, judicial, or other proper purpose, by 287
or to a physician, psychologist, sociologist, scientist, 288
teacher, person pursuing bona fide studies or research, 289
librarian, member of the clergy, prosecutor, judge, or other 290
person having a proper interest in the material or performance. 291

(2) Mistake of age is not a defense to a charge under this 292
section. 293

(3) In a prosecution under this section, the trier of fact 294
may infer that a person in the material or performance involved 295
is a minor, an artificially generated depiction of a minor, or 296
an impaired person if the material or performance, through its 297
title, text, visual representation, or otherwise, represents or 298
depicts the person as a minor, an artificially generated 299
depiction of a minor, or an impaired person. 300

(C) Whoever violates this section is guilty of pandering 301
sexually oriented matter involving a minor, an artificially 302
generated depiction of a minor, or an impaired person. If the 303
offense involves a minor or an artificially generated depiction 304
of a minor, a violation of division (A) (1), (2), (3), (4), (6), 305
or (7) of this section is a felony of the second degree. If the 306
offense involves an impaired person, a violation of division (A) 307
(1), (2), (3), (4), (6), or (7) of this section is a felony of 308
the third degree. Violation of division (A) (5) of this section 309
is a felony of the fourth degree. If the offender previously has 310
been convicted of or pleaded guilty to a violation of this 311
section or section 2907.321 or 2907.323 of the Revised Code, 312
pandering sexually oriented matter involving a minor, an 313

artificially generated depiction of a minor, or an impaired 314
person in violation of division (A) (5) of this section is a 315
felony of the third degree. 316

Sec. 2907.323. (A) No person shall do any of the 317
following: 318

(1) Photograph any minor or impaired person who is not the 319
person's child or ward in a state of nudity, or create, direct, 320
produce, or transfer any material or performance that shows the 321
minor, artificially generated depiction of the minor, or 322
impaired person in a state of nudity, unless both of the 323
following apply: 324

(a) The material or performance is, or is to be, sold, 325
disseminated, displayed, possessed, controlled, brought or 326
caused to be brought into this state, or presented for a bona 327
fide artistic, medical, scientific, educational, religious, 328
governmental, judicial, or other proper purpose, by or to a 329
physician, psychologist, sociologist, scientist, teacher, person 330
pursuing bona fide studies or research, librarian, member of the 331
clergy, prosecutor, judge, or other person having a proper 332
interest in the material or performance; 333

(b) The minor's or impaired person's parents, guardian, or 334
custodian consents in writing to the photographing of the minor 335
or impaired person, to the use of the minor, artificially 336
generated depiction of the minor, or impaired person in the 337
material or performance, or to the transfer of the material and 338
to the specific manner in which the material or performance is 339
to be used. 340

(2) Consent to the photographing of the person's child or 341
ward who is a minor or impaired person, or photograph the 342

person's child or ward who is a minor or impaired person, in a 343
state of nudity or consent to the use of the person's child or 344
ward who is a minor, an artificially generated depiction of the 345
minor, or an impaired person in a state of nudity in any 346
material or performance, or use or transfer a material or 347
performance of that nature, unless the material or performance 348
is sold, disseminated, displayed, possessed, controlled, brought 349
or caused to be brought into this state, or presented for a bona 350
fide artistic, medical, scientific, educational, religious, 351
governmental, judicial, or other proper purpose, by or to a 352
physician, psychologist, sociologist, scientist, teacher, person 353
pursuing bona fide studies or research, librarian, member of the 354
clergy, prosecutor, judge, or other person having a proper 355
interest in the material or performance; 356

(3) Possess or view any material or performance that shows 357
a minor, an artificially generated depiction of a minor, or an 358
impaired person who is not the person's child or ward in a state 359
of nudity, unless one of the following applies: 360

(a) The material or performance is sold, disseminated, 361
displayed, possessed, controlled, brought or caused to be 362
brought into this state, or presented for a bona fide artistic, 363
medical, scientific, educational, religious, governmental, 364
judicial, or other proper purpose, by or to a physician, 365
psychologist, sociologist, scientist, teacher, person pursuing 366
bona fide studies or research, librarian, member of the clergy, 367
prosecutor, judge, or other person having a proper interest in 368
the material or performance. 369

(b) The person knows that the minor's or impaired person's 370
parents, guardian, or custodian has consented in writing to the 371
photographing or use of the minor, artificially generated 372

depiction of the minor, or impaired person in a state of nudity 373
and to the manner in which the material or performance is used 374
or transferred. 375

(B) Whoever violates this section is guilty of illegal use 376
of a minor, an artificially generated depiction of a minor, or 377
an impaired person in a nudity-oriented material or performance. 378
If the offense involves a minor or an artificially generated 379
depiction of a minor, whoever violates division (A) (1) or (2) of 380
this section is guilty of a felony of the second degree. If the 381
offense involves an impaired person, whoever violates division 382
(A) (1) or (2) of this section is guilty of a felony of the third 383
degree. Except as otherwise provided in this division, whoever 384
violates division (A) (3) of this section is guilty of a felony 385
of the fifth degree. If the offender previously has been 386
convicted of or pleaded guilty to a violation of this section or 387
section 2907.321 or 2907.322 of the Revised Code, illegal use of 388
a minor, an artificially generated depiction of a minor, or an 389
impaired person in a nudity-oriented material or performance in 390
violation of division (A) (3) of this section is a felony of the 391
fourth degree. If the offender who commits a violation of 392
division (A) (1) or (2) of this section that involves a minor or 393
an artificially generated depiction of a minor also is convicted 394
of or pleads guilty to a specification as described in section 395
2941.1422 of the Revised Code that was included in the 396
indictment, count in the indictment, or information charging the 397
offense, the court shall sentence the offender to a mandatory 398
prison term as provided in division (B) (7) of section 2929.14 of 399
the Revised Code and shall order the offender to make 400
restitution as provided in division (B) (8) of section 2929.18 of 401
the Revised Code. 402

Sec. 2913.49. (A) As used in this section, ~~"personal":~~ 403

(1) "Personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual.

(2) "Replica of a person's persona" or "replica" means a modified or fabricated version of an individual's voice, photograph, image, likeness, or distinctive appearance that is created or presented in a manner that it appears to be the individual's authentic persona. The term includes the modifications and fabrications produced in whole or in part by generative artificial intelligence systems.

(3) "Generative artificial intelligence system" has the same meaning as in section 1349.13 of the Revised Code.

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

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

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

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

personal identifying information of any person with the intent 433
to aid or abet another person in violating division (B) of this 434
section. 435

(D) No person, with intent to defraud, shall permit 436
another person to use the person's own personal identifying 437
information or a replica of the person's persona. 438

(E) No person who is permitted to use another person's 439
personal identifying information as described in division (D) of 440
this section shall use, obtain, or possess the other person's 441
personal identifying information with intent to defraud any 442
person by doing any act identified in division (B) (1) or (2) of 443
this section. 444

~~(F) (1)~~ (F) No person shall create or use a replica of a 445
person's persona in order to knowingly or intentionally induce 446
any other person to make a financial decision or extend credit 447
to any person in reliance on the replica without the express 448
consent of the individual whose persona is replicated. 449

(G) No person shall create or use a replica with the 450
intent to damage any person's or entity's reputation, including 451
the reputation of the individual whose persona is replicated. 452

(H) No person shall create, use, or disseminate a replica 453
of a person's persona who is not a minor or impaired person in a 454
manner that depicts the individual whose persona is replicated 455
in a state of nudity, engaging in sexual activity, or in any 456
obscene material without the consent of the individual whose 457
persona is replicated. 458

(I) No person shall create, use, or disseminate a replica 459
of a person's persona for the purposes of violating or 460
attempting to violate section 2905.05 of the Revised Code. 461

(J) (1) It is an affirmative defense to a charge under 462
division (B) of this section that the person using the personal 463
identifying information is acting in accordance with a legally 464
recognized guardianship or conservatorship or as a trustee or 465
fiduciary. 466

(2) It is an affirmative defense to a charge under 467
division (B), (C), (D), or (E) of this section that either of 468
the following applies: 469

(a) The person or entity using, obtaining, possessing, or 470
creating the personal identifying information or replica, or 471
permitting it to be used, is a law enforcement agency, 472
authorized fraud personnel, or a representative of or attorney 473
for a law enforcement agency or authorized fraud personnel and 474
is using, obtaining, possessing, or creating the personal 475
identifying information or replica, or permitting it to be used, 476
with prior consent given as specified in this division, in a 477
bona fide investigation, an information security evaluation, a 478
pretext calling evaluation, or a similar matter. The prior 479
consent required under this division shall be given by the 480
person whose personal identifying information or replica is 481
being used, obtained, possessed, or created or is being 482
permitted to be used or, if the person whose personal 483
identifying information or replica is being used, obtained, 484
possessed, or created or is being permitted to be used is 485
deceased, by that deceased person's executor, or a member of 486
that deceased person's family, or that deceased person's 487
attorney. The prior consent required under this division may be 488
given orally or in writing by the person whose personal 489
identifying information or replica is being used, obtained, 490
possessed, or created or is being permitted to be used or that 491
person's executor, or family member, or attorney. 492

(b) The personal identifying information or replica was 493
obtained, possessed, used, created, or permitted to be used for 494
a lawful purpose, provided that division ~~(F) (2) (b)~~ (J) (2) (b) of 495
this section does not apply if the person or entity using, 496
obtaining, possessing, or creating the personal identifying 497
information or replica, or permitting it to be used, is a law 498
enforcement agency, authorized fraud personnel, or a 499
representative of or attorney for a law enforcement agency or 500
authorized fraud personnel that is using, obtaining, possessing, 501
or creating the personal identifying information or replica, or 502
permitting it to be used, in an investigation, an information 503
security evaluation, a pretext calling evaluation, or similar 504
matter. 505

~~(G)~~ (K) It is not a defense to a charge under this section 506
that the person whose personal identifying information or 507
replica was obtained, possessed, used, created, or permitted to 508
be used was deceased at the time of the offense. 509

~~(H) (1)~~ (L) (1) If an offender commits a violation of 510
division (B), (D), or (E) of this section and the violation 511
occurs as part of a course of conduct involving other violations 512
of division (B), (D), or (E) of this section or violations of, 513
attempts to violate, conspiracies to violate, or complicity in 514
violations of division (C) of this section or section 2913.02, 515
2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 516
of the Revised Code, the court, in determining the degree of the 517
offense pursuant to division ~~(I)~~ (M) of this section, may 518
aggregate all credit, property, or services obtained or sought 519
to be obtained by the offender and all debts or other legal 520
obligations avoided or sought to be avoided by the offender in 521
the violations involved in that course of conduct. The course of 522
conduct may involve one victim or more than one victim. 523

(2) If an offender commits a violation of division (C) of 524
this section and the violation occurs as part of a course of 525
conduct involving other violations of division (C) of this 526
section or violations of, attempts to violate, conspiracies to 527
violate, or complicity in violations of division (B), (D), or 528
(E) of this section or section 2913.02, 2913.04, 2913.11, 529
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 530
Code, the court, in determining the degree of the offense 531
pursuant to division ~~(I)~~(M) of this section, may aggregate all 532
credit, property, or services obtained or sought to be obtained 533
by the person aided or abetted and all debts or other legal 534
obligations avoided or sought to be avoided by the person aided 535
or abetted in the violations involved in that course of conduct. 536
The course of conduct may involve one victim or more than one 537
victim. 538

~~(I)(1)~~(M)(1) Whoever violates this section is guilty of 539
identity fraud. 540

(2) Except as otherwise provided in this division or 541
division ~~(I)(3)~~(M)(3) of this section, identity fraud is a 542
felony of the fifth degree. If the value of the credit, 543
property, services, debt, or other legal obligation involved in 544
the violation or course of conduct is one thousand dollars or 545
more and is less than seven thousand five hundred dollars, 546
except as otherwise provided in division ~~(I)(3)~~(M)(3) of this 547
section, identity fraud is a felony of the fourth degree. If the 548
value of the credit, property, services, debt, or other legal 549
obligation involved in the violation or course of conduct is 550
seven thousand five hundred dollars or more and is less than one 551
hundred fifty thousand dollars, except as otherwise provided in 552
division ~~(I)(3)~~(M)(3) of this section, identity fraud is a 553
felony of the third degree. If the value of the credit, 554

property, services, debt, or other legal obligation involved in 555
the violation or course of conduct is one hundred fifty thousand 556
dollars or more, except as otherwise provided in division ~~(I) (3)~~ 557
(M) (3) of this section, identity fraud is a felony of the second 558
degree. 559

(3) If the victim of the offense is a minor, an elderly 560
person, disabled adult, active duty service member, or spouse of 561
an active duty service member, a violation of this section is 562
identity fraud against a person in a protected class. Except as 563
otherwise provided in this division, identity fraud against a 564
person in a protected class is a felony of the fourth degree. If 565
the value of the credit, property, services, debt, or other 566
legal obligation involved in the violation or course of conduct 567
is one thousand dollars or more and is less than seven thousand 568
five hundred dollars, identity fraud against a person in a 569
protected class is a felony of the third degree. If the value of 570
the credit, property, services, debt, or other legal obligation 571
involved in the violation or course of conduct is seven thousand 572
five hundred dollars or more and is less than one hundred fifty 573
thousand dollars, identity fraud against a person in a protected 574
class is a felony of the second degree. If the value of the 575
credit, property, services, debt, or other legal obligation 576
involved in the violation or course of conduct is one hundred 577
fifty thousand dollars or more, identity fraud against a person 578
in a protected class is a felony of the first degree. If the 579
victim of the offense is an elderly person, in addition to any 580
other penalty imposed for the offense, the offender shall be 581
required to pay full restitution to the victim and to pay a fine 582
of up to fifty thousand dollars. The clerk of court shall 583
forward all fines collected under this division ~~(I) (3) of this~~ 584
~~section~~ to the county department of job and family services to 585

be used for the reporting and investigation of elder abuse, 586
neglect, and exploitation or for the provision or arrangement of 587
protective services under sections 5101.61 to 5101.71 of the 588
Revised Code. 589

~~(J)~~ (N) In addition to the penalties described in division 590
~~(I)~~ (M) of this section, anyone injured in person or property by 591
a violation of division (B), (D), or (E) of this section who is 592
the owner of the identifying information involved, or whose 593
persona is replicated, in that violation has a civil action 594
against the offender pursuant to section 2307.60 of the Revised 595
Code. That person may also bring a civil action to enjoin or 596
restrain future acts that would constitute a violation of 597
division (B), (D), or (E) of this section. 598

(O) In addition to the penalties described in division (M) 599
of this section, any person injured in person or property by a 600
violation of division (H) of this section by a replica of the 601
person's persona has a civil action against the offender 602
pursuant to section 2307.66 of the Revised Code. 603

(P) This section does not apply to any information service 604
or system provider that provides or enables computer access by 605
multiple users to a computer server for libraries or educational 606
institutions, including a service or system that provides access 607
to the internet. 608

(Q) This section does not apply to the provider or 609
developer of any technology used in the creation of a replica of 610
a person's persona, unless the provider or developer is the same 611
entity committing a violation of this section. 612

Section 2. That existing sections 1345.51, 2907.321, 613
2907.322, 2907.323, and 2913.49 of the Revised Code are hereby 614

repealed.

615