

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 347

Representatives McColley, Brinkman

**Cosponsors: Representatives Antani, Becker, Brenner, Dever, Duffey, Hambley,
Henne, Hood, LaTourette, Retherford, Roegner, Schuring, Terhar, Thompson,
Vitale, Young, Zeltwanger**

A BILL

To amend sections 2923.36, 2981.01, 2981.02, 1
2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2
2981.11, 2981.12, 2981.13, and 2981.14 and to 3
repeal section 2981.05 of the Revised Code to 4
eliminate civil asset forfeiture proceedings and 5
to modify the law governing criminal asset 6
forfeitures. 7

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

Section 1. That sections 2923.36, 2981.01, 2981.02, 8
2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2981.11, 2981.12, 9
2981.13, and 2981.14 of the Revised Code be amended to read as 10
follows: 11

Sec. 2923.36. (A) Upon the institution of any criminal 12
proceeding charging a violation of section 2923.32 of the 13
Revised Code, the filing of any complaint, indictment, or 14
information in juvenile court alleging a violation of that 15
section as a delinquent act, or the institution of any civil 16
proceeding under section 2923.34 ~~or 2981.05~~ of the Revised Code, 17

the state, at any time during the pendency of the proceeding, 18
may file a corrupt activity lien notice with the county recorder 19
of any county in which property subject to forfeiture may be 20
located. No fee shall be required for filing the notice. The 21
recorder immediately shall record the notice pursuant to section 22
317.08 of the Revised Code. 23

(B) A corrupt activity lien notice shall be signed by the 24
prosecuting attorney who files the lien. The notice shall set 25
forth all of the following information: 26

(1) The name of the person against whom the proceeding has 27
been brought. The prosecuting attorney may specify in the notice 28
any aliases, names, or fictitious names under which the person 29
may be known. The prosecuting attorney also may specify any 30
corporation, partnership, or other entity in which the person 31
has an interest subject to forfeiture under Chapter 2981. of the 32
Revised Code and shall describe in the notice the person's 33
interest in the corporation, partnership, or other entity. 34

(2) If known to the prosecuting attorney, the present 35
residence and business addresses of the person or names set 36
forth in the notice; 37

(3) A statement that a criminal or delinquency proceeding 38
for a violation of section 2923.32 of the Revised Code or a 39
civil proceeding under section 2923.34 ~~or 2981.05~~ of the Revised 40
Code has been brought against the person named in the notice, 41
the name of the county in which the proceeding has been brought, 42
and the case number of the proceeding; 43

(4) A statement that the notice is being filed pursuant to 44
this section; 45

(5) The name and address of the prosecuting attorney 46

filing the notice; 47

(6) A description of the real or personal property subject 48
to the notice and of the interest in that property of the person 49
named in the notice, to the extent the property and the interest 50
of the person in it reasonably is known at the time the 51
proceeding is instituted or at the time the notice is filed. 52

(C) A corrupt activity lien notice shall apply only to one 53
person and, to the extent applicable, any aliases, fictitious 54
names, or other names, including names of corporations, 55
partnerships, or other entities, to the extent permitted in this 56
section. A separate corrupt activity lien notice is required to 57
be filed for any other person. 58

(D) Within seven days after the filing of each corrupt 59
activity lien notice, the prosecuting attorney who files the 60
notice shall furnish to the person named in the notice by 61
certified mail, return receipt requested, to the last known 62
business or residential address of the person, a copy of the 63
recorded notice with a notation on it of any county in which the 64
notice has been recorded. The failure of the prosecuting 65
attorney to furnish a copy of the notice under this section 66
shall not invalidate or otherwise affect the corrupt activity 67
lien notice when the prosecuting attorney did not know and could 68
not reasonably ascertain the address of the person entitled to 69
notice. 70

After receipt of a copy of the notice under this division, 71
the person named in the notice may petition the court to 72
authorize the person to post a surety bond in lieu of the lien 73
or to otherwise modify the lien as the interests of justice may 74
require. The bond shall be in an amount equal to the value of 75
the property reasonably known to be subject to the notice and 76

conditioned on the payment of any judgment and costs ordered in 77
an action pursuant to Chapter 2981. of the Revised Code up to 78
the value of the bond. 79

(E) From the date of filing of a corrupt activity lien 80
notice, the notice creates a lien in favor of the state on any 81
personal or real property or any beneficial interest in the 82
property located in the county in which the notice is filed that 83
then or subsequently is owned by the person named in the notice 84
or under any of the names set forth in the notice. 85

The lien created in favor of the state is superior and 86
prior to the interest of any other person in the personal or 87
real property or beneficial interest in the property, if the 88
interest is acquired subsequent to the filing of the notice. 89

~~(F) (1) Notwithstanding any law or rule to the contrary, in 90
conjunction with any civil proceeding brought pursuant to 91
section 2981.05 of the Revised Code, the prosecuting attorney 92
may file in any county, without prior court order, a lis pendens 93
pursuant to sections 2703.26 and 2703.27 of the Revised Code. In 94
such a case, any person acquiring an interest in the subject 95
property or beneficial interest in the property, if the property 96
interest is acquired subsequent to the filing of the lis 97
pendens, shall take the property or interest subject to the 98
civil proceeding and any subsequent judgment. 99~~

~~(2) If a corrupt activity lien notice has been filed, the 100
prosecuting attorney may name as a defendant in the lis pendens, 101
in addition to the person named in the notice, any person 102
acquiring an interest in the personal or real property or 103
beneficial interest in the property subsequent to the filing of 104
the notice. If a judgment of forfeiture is entered in the 105
criminal or delinquency proceeding pursuant to section 2981.04 106~~

of the Revised Code in favor of the state, the interest of any 107
person in the property that was acquired subsequent to the 108
filing of the notice shall be subject to the notice and judgment 109
of forfeiture. 110

(G) Upon a final judgment of forfeiture in favor of the 111
state pursuant to Chapter 2981. of the Revised Code, title of 112
the state to the forfeited property shall do either of the 113
following: 114

(1) In the case of real property, or a beneficial interest 115
in it, relate back to the date of filing of the corrupt activity 116
lien notice in the county where the property or interest is 117
located. ~~If no corrupt activity lien notice was filed, title of~~ 118
~~the state relates back to the date of the filing of any lis~~ 119
~~pendens under division (F) of this section in the records of the~~ 120
~~county recorder of the county in which the real property or~~ 121
~~beneficial interest is located.~~ If no corrupt activity lien 122
notice or ~~lis pendens~~ was filed, title of the state relates back 123
to the date of the recording of the final judgment of forfeiture 124
in the records of the county recorder of the county in which the 125
real property or beneficial interest is located. 126

(2) In the case of personal property or a beneficial 127
interest in it, relate back to the date on which the property or 128
interest was seized by the state, or the date of filing of a 129
corrupt activity lien notice in the county in which the property 130
or beneficial interest is located. If the property was not 131
seized and no corrupt activity lien notice was filed, title of 132
the state relates back to the date of the recording of the final 133
judgment of forfeiture in the county in which the personal 134
property or beneficial interest is located. 135

(H) If personal or real property, or a beneficial interest 136

in it, that is subject to forfeiture pursuant to section 2923.32 137
of the Revised Code is conveyed, alienated, disposed of, or 138
otherwise rendered unavailable for forfeiture after the filing 139
of either a corrupt activity lien notice, ~~or~~ or a criminal or 140
delinquency proceeding for a violation of section 2923.32 ~~or a~~ 141
~~civil proceeding under section 2981.05~~ of the Revised Code, 142
whichever is earlier, the state may bring an action in any court 143
of common pleas against the person named in the corrupt activity 144
lien notice or the defendant in the criminal, or delinquency, ~~or~~ 145
~~civil~~ proceeding to recover the value of the property or 146
interest. The court shall enter final judgment against the 147
person named in the notice or the defendant for an amount equal 148
to the value of the property or interest together with 149
investigative costs and attorney's fees incurred by the state in 150
the action. ~~If a civil proceeding is pending, an action pursuant~~ 151
~~to this section shall be filed in the court in which the~~ 152
~~proceeding is pending.~~ 153

(I) If personal or real property, or a beneficial interest 154
in it, that is subject to forfeiture pursuant to Chapter 2981. 155
of the Revised Code is alienated or otherwise transferred or 156
disposed of after either the filing of a corrupt activity lien 157
notice, ~~or~~ or the filing of a criminal or delinquency proceeding 158
for a violation of section 2923.32 ~~or a civil proceeding under~~ 159
~~section 2981.05~~ of the Revised Code, whichever is earlier, the 160
transfer or disposal is fraudulent as to the state and the state 161
shall have all the rights granted a creditor under Chapter 1336. 162
of the Revised Code. 163

(J) No trustee, ~~who~~ who acquires actual knowledge that a 164
corrupt activity lien notice, or a criminal or delinquency 165
proceeding for a violation of section 2923.32 ~~or a civil~~ 166
~~proceeding under section 2981.05~~ of the Revised Code has been 167

filed against any person for whom the trustee holds legal or 168
record title to personal or real property, shall recklessly fail 169
to furnish promptly to the prosecuting attorney all of the 170
following: 171

(1) The name and address of the person, as known to the 172
trustee; 173

(2) The name and address, as known to the trustee, of all 174
other persons for whose benefit the trustee holds title to the 175
property; 176

(3) If requested by the prosecuting attorney, a copy of 177
the trust agreement or other instrument under which the trustee 178
holds title to the property. 179

Any trustee who fails to comply with this division is 180
guilty of failure to provide corrupt activity lien information, 181
a misdemeanor of the first degree. 182

(K) If a trustee transfers title to personal or real 183
property after a corrupt activity lien notice is filed against 184
the property, the lien is filed in the county in which the 185
property is located, and the lien names a person who holds a 186
beneficial interest in the property, the trustee, if the trustee 187
has actual notice of the notice, shall be liable to the state 188
for the greater of the following: 189

(1) The proceeds received directly by the person named in 190
the notice as a result of the transfer; 191

(2) The proceeds received by the trustee as a result of 192
the transfer and distributed to the person named in the notice; 193

(3) The fair market value of the interest of the person 194
named in the notice in the property transferred. 195

However, if the trustee transfers property for at least 196
its fair market value and holds the proceeds that otherwise 197
would be paid or distributed to the beneficiary, or at the 198
direction of the beneficiary or the beneficiary's designee, the 199
liability of the trustee shall not exceed the amount of the 200
proceeds held by the trustee. 201

(L) The filing of a corrupt activity lien notice does not 202
constitute a lien on the record title to personal or real 203
property owned by the trustee, except to the extent the trustee 204
is named in the notice. 205

The prosecuting attorney for the county may bring a civil 206
action in any court of common pleas to recover from the trustee 207
the amounts set forth in division (H) of this section. The 208
county may recover investigative costs and attorney's fees 209
incurred by the prosecuting attorney. 210

(M) (1) This section does not apply to any transfer by a 211
trustee under a court order, unless the order is entered in an 212
action between the trustee and the beneficiary. 213

(2) Unless the trustee has actual knowledge that a person 214
owning a beneficial interest in the trust is named in a corrupt 215
activity lien notice or otherwise is a defendant in a civil 216
proceeding brought pursuant to section 2923.34 ~~or 2981.05~~ of the 217
Revised Code, this section does not apply to either of the 218
following: 219

(a) Any transfer by a trustee required under the terms of 220
any trust agreement, if the agreement is a matter of public 221
record before the filing of any corrupt activity lien notice; 222

(b) Any transfer by a trustee to all of the persons who 223
own a beneficial interest in the trust. 224

(N) The filing of a corrupt activity lien notice does not 225
affect the use to which personal or real property, or a 226
beneficial interest in it, that is owned by the person named in 227
the notice may be put or the right of the person to receive any 228
proceeds resulting from the use and ownership, but not the sale, 229
of the property, until a judgment of forfeiture is entered. 230

(O) The term of a corrupt activity lien notice is five 231
years from the date the notice is filed, unless a renewal notice 232
has been filed by the prosecuting attorney of the county in 233
which the property or interest is located. The term of any 234
renewal of a corrupt activity lien notice granted by the court 235
is five years from the date of its filing. A corrupt activity 236
lien notice may be renewed any number of times while a criminal 237
or civil proceeding under section 2923.34, or 2981.04, ~~or~~ 238
~~2981.05~~ of the Revised Code, or an appeal from either type of 239
proceeding, is pending. 240

(P) The prosecuting attorney who files the corrupt 241
activity lien notice may terminate, in whole or part, any 242
corrupt activity lien notice or release any personal or real 243
property or beneficial interest in the property upon any terms 244
that the prosecuting attorney determines are appropriate. Any 245
termination or release shall be filed by the prosecuting 246
attorney with each county recorder with whom the notice was 247
filed. No fee shall be imposed for the filing. 248

(Q) (1) If no civil proceeding has been brought by the 249
prosecuting attorney pursuant to section 2923.34 of the Revised 250
Code against the person named in the corrupt activity lien 251
notice, the acquittal in a criminal or delinquency proceeding 252
for a violation of section 2923.32 of the Revised Code of the 253
person named in the notice or the dismissal of a criminal or 254

delinquency proceeding for such a violation against the person 255
named in the notice terminates the notice. In such a case, the 256
filing of the notice has no effect. 257

(2) If a civil proceeding has been brought pursuant to 258
section 2923.34 ~~or 2981.05~~ of the Revised Code with respect to 259
any property that is the subject of a corrupt activity lien 260
notice and if the criminal or delinquency proceeding brought 261
against the person named in the notice for a violation of 262
section 2923.32 of the Revised Code has been dismissed or the 263
person named in the notice has been acquitted in the criminal or 264
delinquency proceeding for such a violation, the notice shall 265
continue for the duration of the civil proceeding and any 266
appeals from the civil proceeding, except that it shall not 267
continue any longer than the term of the notice as determined 268
pursuant to division (O) of this section. 269

~~(3) If no civil proceeding brought pursuant to section~~ 270
~~2981.05 of the Revised Code then is pending against the~~ Any 271
~~person named in a corrupt activity lien notice, any person so~~ 272
~~named~~ may bring an action against the prosecuting attorney who 273
filed the notice, in the county where it was filed, seeking a 274
release of the property subject to the notice or termination of 275
the notice. In such a case, the court of common pleas promptly 276
shall set a date for hearing, which shall be not less than five 277
nor more than ten days after the action is filed. The order and 278
a copy of the complaint shall be served on the prosecuting 279
attorney within three days after the action is filed. At the 280
hearing, the court shall take evidence as to whether any 281
personal or real property, or beneficial interest in it, that is 282
owned by the person bringing the action is covered by the notice 283
or otherwise is subject to forfeiture. If the person bringing 284
the action shows by a preponderance of the evidence that the 285

notice does not apply to the person or that any personal or real 286
property, or beneficial interest in it, that is owned by the 287
person is not subject to forfeiture, the court shall enter a 288
judgment terminating the notice or releasing the personal or 289
real property or beneficial interest from the notice. 290

At a hearing, the court may release from the notice any 291
property or beneficial interest upon the posting of security, by 292
the person against whom the notice was filed, in an amount equal 293
to the value of the property or beneficial interest owned by the 294
person. 295

(4) The court promptly shall enter an order terminating a 296
corrupt activity lien notice or releasing any personal or real 297
property or beneficial interest in the property, if a sale of 298
the property or beneficial interest is pending and the filing of 299
the notice prevents the sale. However, the proceeds of the sale 300
shall be deposited with the clerk of the court, subject to the 301
further order of the court. 302

(R) Notwithstanding any provision of this section, any 303
person who has perfected a security interest in personal or real 304
property or a beneficial interest in the property for the 305
payment of an enforceable debt or other similar obligation prior 306
to the filing of a corrupt activity lien notice ~~or a lis pendens~~ 307
in reference to the property or interest may foreclose on the 308
property or interest as otherwise provided by law. The 309
foreclosure, insofar as practical, shall be made so that it 310
otherwise will not interfere with a forfeiture under Chapter 311
2981. of the Revised Code. 312

Sec. 2981.01. (A) Forfeitures under this chapter shall be 313
governed by all of the following purposes: 314

(1) To provide economic disincentives and remedies to	315
deter and offset the economic effect of offenses by seizing and	316
forfeiting contraband, proceeds, and certain instrumentalities;	317
(2) To ensure that seizures and forfeitures of	318
instrumentalities are proportionate to the offense committed;	319
(3) To protect third parties from wrongful forfeiture of	320
their property;	321
(4) To prioritize restitution for victims of offenses;	322
<u>(5) To prohibit the forfeiture of a person's property</u>	323
<u>unless the person has been convicted of an offense or</u>	324
<u>adjudicated a delinquent child for committing an act that would</u>	325
<u>be an offense if committed by an adult.</u>	326
(B) As used in this chapter:	327
(1) "Aircraft" has the same meaning as in section 4561.01	328
of the Revised Code.	329
(2) "Computers," "computer networks," "computer systems,"	330
"computer software," and "telecommunications device" have the	331
same meanings as in section 2913.01 of the Revised Code.	332
(3) "Financial institution" means a bank, credit union,	333
savings and loan association, or a licensee or registrant under	334
Chapter 1321. of the Revised Code.	335
(4) "Firearm" and "dangerous ordnance" have the same	336
meanings as in section 2923.11 of the Revised Code.	337
(5) "Innocent person" includes any bona fide purchaser of	338
property that is subject to forfeiture, including any person who	339
establishes a valid claim to or interest in the property in	340
accordance with section 2923.04 <u>2981.04</u> of the Revised Code, and	341

any victim of an alleged offense. 342

(6) "Instrumentality" means property otherwise lawful to 343
possess that is used in or intended to be used in an offense. An 344
"instrumentality" may include, but is not limited to, a firearm, 345
a mobile instrumentality, a computer, a computer network, a 346
computer system, computer software, a telecommunications device, 347
money, and any other means of exchange. 348

(7) "Law enforcement agency" includes, but is not limited 349
to, the state board of pharmacy, the enforcement division of the 350
department of taxation, the Ohio casino control commission, and 351
the office of the prosecutor. 352

(8) "Mobile instrumentality" means an instrumentality that 353
is inherently mobile and used in the routine transport of 354
persons. "Mobile instrumentality" includes, but is not limited 355
to, any vehicle, any watercraft, and any aircraft. 356

(9) "Money" has the same meaning as in section 1301.201 of 357
the Revised Code. 358

(10) "Offense" means any act or omission that could be 359
charged as a criminal offense or a delinquent act, whether or 360
not a formal criminal prosecution or delinquent child proceeding 361
began at the time the forfeiture is initiated. Except as 362
otherwise specified, an offense for which property may be 363
forfeited includes any felony and any misdemeanor. The 364
commission of an "offense" includes the commission of a 365
delinquent act. 366

(11) "Proceeds" means both of the following: 367

(a) In cases involving unlawful goods, services, or 368
activities, "proceeds" means any property derived directly or 369
indirectly from an offense. "Proceeds" may include, but is not 370

limited to, money or any other means of exchange. "Proceeds" is 371
not limited to the net gain or profit realized from the offense. 372

(b) In cases involving lawful goods or services that are 373
sold or provided in an unlawful manner, "proceeds" means the 374
amount of money or other means of exchange acquired through the 375
illegal transactions resulting in the forfeiture, less the 376
direct costs lawfully incurred in providing the goods or 377
services. The lawful costs deduction does not include any part 378
of the overhead expenses of, or income taxes paid by, the entity 379
providing the goods or services. The alleged offender or 380
delinquent child has the burden to prove that any costs are 381
lawfully incurred. 382

(12) "Property" means "property" as defined in section 383
2901.01 of the Revised Code and any benefit, privilege, claim, 384
position, interest in an enterprise, or right derived, directly 385
or indirectly, from the offense. 386

(13) "Property subject to forfeiture" includes contraband 387
and proceeds and may include instrumentalities as provided in 388
this chapter. 389

(14) "Prosecutor" has the same meaning as in section 390
2935.01 of the Revised Code. When relevant, "prosecutor" also 391
includes the attorney general. 392

(15) "Vehicle" has the same meaning as in section 4501.01 393
of the Revised Code. 394

(16) "Watercraft" has the same meaning as in section 395
1547.01 of the Revised Code. 396

(C) The penalties and procedures under Chapters 2923., 397
2925., 2933., and 3772. of the Revised Code remain in effect to 398
the extent that they do not conflict with this chapter. 399

Sec. 2981.02. (A) The following property is subject to 400
forfeiture to the state or a political subdivision under ~~either~~ 401
the criminal or delinquency process in section 2981.04 of the 402
Revised Code ~~or the civil process in section 2981.05 of the~~ 403
~~Revised Code:~~ 404

(1) Contraband involved in an offense; 405

(2) Proceeds derived from or acquired through the 406
commission of an offense; 407

(3) An instrumentality that is used in or intended to be 408
used in the commission or facilitation of any of the following 409
offenses when the use or intended use, consistent with division 410
(B) of this section, is sufficient to warrant forfeiture under 411
this chapter: 412

(a) A felony; 413

(b) A misdemeanor, when forfeiture is specifically 414
authorized by a section of the Revised Code or by a municipal 415
ordinance that creates the offense ~~or sets forth its penalties;~~ 416

(c) An attempt to commit, complicity in committing, or a 417
conspiracy to commit an offense of the type described in 418
divisions (A) (3) (a) and (b) of this section. 419

(B) In determining whether an alleged instrumentality was 420
used in or was intended to be used in the commission or 421
facilitation of an offense or an attempt, complicity, or 422
conspiracy to commit an offense in a manner sufficient to 423
warrant its forfeiture, the trier of fact shall consider the 424
following factors the trier of fact determines are relevant: 425

(1) Whether the offense could not have been committed or 426
attempted but for the presence of the instrumentality; 427

(2) Whether the primary purpose in using the 428
instrumentality was to commit or attempt to commit the offense; 429

(3) The extent to which the instrumentality furthered the 430
commission of, or attempt to commit, the offense. 431

(C) This chapter does not apply to or limit forfeitures 432
under Title XLV of the Revised Code, including forfeitures 433
relating to section 2903.06 or 2903.08 of the Revised Code. 434

Sec. 2981.03. (A) (1) The state or political subdivision 435
acquires provisional title to property subject to forfeiture 436
under this chapter upon a person's commission of an offense 437
giving rise to forfeiture, subject to third party claims and a 438
final adjudication under section 2981.04 ~~or 2981.05~~ of the 439
Revised Code. Provisional title authorizes the state or 440
political subdivision to seize and hold the property, and to act 441
to protect the property, under this section before any 442
proceeding under this chapter. Title to the property vests with 443
the state or political subdivision when the trier of fact 444
renders a final forfeiture verdict or order under section 445
2981.04 ~~or 2981.05~~ of the Revised Code, but that title is 446
subject to third party claims adjudicated under those sections. 447

(2) ~~A-Except as otherwise provided in division (A) (3) of~~ 448
this section, a law enforcement officer may seize property that 449
the officer has probable cause to believe is property subject to 450
forfeiture. If a law enforcement officer seizes property that is 451
titled or registered under law, the officer or the law 452
enforcement agency that employs the officer shall notify the 453
property owner of the seizure. The agency shall give notice to 454
the property owner at the owner's last known address as soon as 455
practical after the seizure and may give the notice by certified 456
mail or orally by any means, including telephone. If the officer 457

or agency is unable to provide the notice required by this 458
division despite reasonable, good faith efforts, those efforts 459
constitute fulfillment of the notice requirement. 460

(3) ~~In~~ If a civil forfeiture case under this chapter in 461
~~which the state or political subdivision seeks to seize real~~ 462
~~property, the property owner may request~~ the prosecutor shall 463
file a motion in the appropriate court to request a hearing 464
~~before the seizure, and in~~ shall notify the property owner of 465
the motion. The court shall hold the hearing not sooner than 466
fourteen days after the motion is filed. At the hearing, the 467
court shall grant the motion if the state or political 468
subdivision ~~shall show probable cause~~ demonstrates by a 469
preponderance of the evidence that the real property is subject 470
to forfeiture. 471

(4) A person aggrieved by an alleged unlawful seizure of 472
property may seek relief from the seizure by filing a motion in 473
the appropriate court that shows the person's interest in the 474
property, states why the seizure was unlawful, and requests the 475
property's return. If the motion is filed before an indictment, 476
information, or a complaint seeking forfeiture of the property 477
is filed, the court shall ~~promptly~~ schedule a hearing on the 478
motion, ~~and at~~ not later than fourteen days after it is filed. 479
At the hearing, the person ~~state or political subdivision~~ shall 480
demonstrate by a preponderance of the evidence that the seizure 481
was ~~unlawful~~ lawful and that the person is not entitled to the 482
property. If the motion is filed by a defendant after an 483
indictment, information, or a complaint seeking forfeiture of 484
the property has been filed, the court shall treat the motion as 485
a motion to suppress evidence. If the motion is filed by a third 486
party after an indictment, information, or complaint seeking 487
forfeiture of the property has been filed, the court shall treat 488

the motion as a petition of a person with an alleged interest in 489
the subject property, pursuant to divisions (E) and (F) of 490
section 2981.04 of the Revised Code. 491

(5) (a) In any action under section 2981.04 ~~or 2981.05~~ of 492
the Revised Code, if a property owner or third party claims 493
lawful interest in the subject property alleged to be proceeds, 494
the state or political subdivision has provisional title and a 495
right to hold property if it proves both of the following by a 496
preponderance of the evidence: 497

(i) The interest in the property was acquired by the 498
alleged offender or delinquent child during the commission of 499
the offense or within a reasonable time after that period. 500

(ii) There is no likely source for the interest in the 501
property other than as proceeds derived from or acquired through 502
the commission of the offense. 503

(b) The alleged offender or delinquent child shall have 504
the burden to prove the amount of any direct costs lawfully 505
incurred. 506

(B) (1) Upon application by the prosecutor who prosecutes 507
or brings an action that allows forfeiture under this chapter, 508
the court in which the action is prosecuted or filed may issue 509
an order taking any reasonable action necessary to preserve the 510
reachability of the property including, but not limited to, a 511
restraining order or injunction, an order requiring execution of 512
a satisfactory bond or insurance policy, an order to inspect, 513
photograph, or inventory the property, an order placing a lien 514
or lis pendens against the property, or an order appointing a 515
receiver or trustee. The court may issue an order of this nature 516
at any of the following times: 517

(a) Upon the filing of a complaint, indictment, or 518
information alleging the property to be subject to forfeiture 519
under section 2981.02 of the Revised Code; 520

(b) Prior to the filing of a complaint, an indictment, or 521
information alleging the property to be subject to forfeiture 522
under section 2981.02 of the Revised Code, if, after giving 523
notice to all persons known to have ~~a~~ an interest in the 524
property and giving those persons an opportunity to be heard, 525
the court determines that all of the following apply: 526

(i) There is a substantial probability the state or 527
political subdivision will prevail on the forfeiture issue. 528

(ii) There is a substantial probability that failure to 529
enter the order will result in the property being destroyed, 530
being removed from the court's jurisdiction, or otherwise being 531
made unavailable for forfeiture. 532

(iii) The need to preserve the availability of the 533
property outweighs the hardship on the person against whom the 534
order is to be entered. 535

(c) As a condition of releasing the property based on a 536
determination of substantial hardship under division (D) of this 537
section. 538

(2) Except as otherwise provided in division (B) (3) of 539
this section, the court shall make an order under division (B) 540
(1) (b) of this section effective for not more than ninety days, 541
but the court may extend the order if the prosecutor 542
demonstrates that the need to preserve the reachability of the 543
property still exists or for other good cause shown and shall 544
extend the order if an indictment, information, or a complaint 545
is filed alleging that the property is subject to forfeiture. 546

(3) A court may issue an order under division (B) (1) of 547
this section without giving notice or a hearing to a person 548
known to have a interest in the property if the prosecutor 549
demonstrates that the property is subject to forfeiture and that 550
giving notice and a hearing will jeopardize the availability of 551
the property for forfeiture. Notwithstanding the ninety-day 552
limit described in division (B) (2) of this section, the court 553
shall make an order under division (B) (3) of this section 554
effective for not more than ten days, but the court may extend 555
the order if the prosecutor again demonstrates that the property 556
is subject to forfeiture and that a hearing will jeopardize the 557
availability of the property or for other good cause shown or if 558
the person subject to the order consents to a longer period. If 559
a party requests a hearing on the order, the court shall hold 560
the hearing at the earliest possible time before the order 561
expires. 562

(4) At any hearing under division (B) of this section, the 563
court may receive and consider evidence and information that is 564
inadmissible under the Rules of Evidence. The court shall cause 565
the hearing to be recorded and shall cause a transcript to be 566
made. If property is to be seized as a result of the hearing, 567
the recording and transcript shall not be a public record for 568
purposes of section 149.43 of the Revised Code until the 569
property is seized. This section does not authorize making 570
available for inspection any confidential law enforcement 571
investigatory record or trial preparation record, as defined in 572
section 149.43 of the Revised Code. 573

(C) Except as otherwise provided in division (E) of this 574
section, any replevin, conversion, or other civil action brought 575
concerning property subject to a criminal ~~or civil~~ forfeiture 576
action under this chapter shall be stayed until the forfeiture 577

action is resolved. 578

(D) (1) A person with an interest in property that is 579
subject to forfeiture and that is seized under this chapter may 580
seek conditional release of the property by requesting 581
possession from the person with custody of the property. The 582
request shall demonstrate how the person meets the requirements 583
specified in divisions (D) (3) (a), (b), and (c) of this section. 584

(2) If the person with custody of the property does not 585
release the property within fifteen days after a person makes a 586
request under division (D) (1) of this section, or within seven 587
days after a person makes the request if the property was seized 588
as a mobile instrumentality or if the request is to copy 589
records, the person who made the request may file a petition for 590
conditional release with the court in which the complaint, 591
indictment, or information is filed or, if no complaint, 592
indictment, or information is filed, the court that issued the 593
seizure warrant for the property. The petition shall demonstrate 594
how the person meets the requirements specified in divisions (D) 595
(3) (a), (b), and (c) of this section and the steps the person 596
has taken to secure release of the property from the official. 597
Unless extended for good cause shown, the petition shall be 598
filed either within thirty days of the filing of a complaint, an 599
indictment, or information in the forfeiture action or, if no 600
complaint, indictment, or information is filed, within thirty 601
days of the issuance of the seizure warrant of the property. 602

If the court finds that the person meets the criteria 603
specified in divisions (D) (3) (a), (b), and (c) of this section, 604
the court shall order the property's conditional return to the 605
person pending completion of the forfeiture action. In issuing 606
this order, the court shall notify the person of the 607

prohibitions against interfering with or diminishing property in 608
section 2981.07 of the Revised Code and may make any order 609
necessary to ensure that the value of the property is 610
maintained. 611

If personal, business, or governmental records are seized, 612
including those contained in computer files, a person may 613
petition the court for a prompt opportunity to copy, at the 614
person's expense, any records that are not contraband. The court 615
may grant the petition if the person demonstrates how the person 616
meets the requirements specified in divisions (D) (3) (a) and (c) 617
of this section. The court shall order a competent person to 618
supervise the copying. 619

(3) Except when there is probable cause that the property 620
is contraband, property that must be held for a reasonable time 621
as evidence related to an offense, or property that is likely to 622
be used in additional offenses or except when the state or 623
political subdivision meets the burden imposed under division 624
(A) (5) of this section regarding alleged proceeds, a court may 625
conditionally release property subject to forfeiture to a person 626
who demonstrates all of the following: 627

(a) A possessory interest in the property; 628

(b) Sufficient ties to the community to provide assurance 629
that the property will be available at the time of trial; 630

(c) That failure to conditionally release the property 631
will cause a substantial hardship to the claimant. 632

(4) In determining whether a substantial hardship exists, 633
the court shall weigh the claimant's likely hardship from the 634
state's or political subdivision's continued possession of the 635
property against the risk that the property will be destroyed, 636

damaged, lost, concealed, or transferred if returned to the 637
claimant. The court shall consider in favor of release the 638
possibility that withholding the property would prevent a 639
legitimate business from functioning, prevent the claimant's or 640
an innocent person from maintaining employment, or leave the 641
claimant or an innocent person homeless. 642

(5) If the state or political subdivision shows that the 643
claimant's petition is frivolous, the court shall deny the 644
petition. Otherwise, the state or political subdivision may 645
respond to the petition by submitting evidence ex parte to avoid 646
disclosing any matter that may adversely affect an ongoing 647
criminal investigation or pending trial. 648

(6) The court shall decide on the petition not more than 649
~~thirty-fourteen~~ days after it is filed. If the property seized 650
is alleged to be a mobile instrumentality, the court shall 651
decide on the petition ~~as soon as practicable within the thirty-~~ 652
~~day period~~ not more than seven days after it is filed. If 653
personal, business, or governmental records were seized and a 654
person files a petition to copy the records, the court shall 655
decide on the petition as soon as practicable, but not later 656
than thirty days after it is filed. In any case, the court may 657
extend the time for deciding on the petition by consent of the 658
parties ~~or for good cause shown.~~ In any case, the court may 659
extend the time for deciding on the petition up to thirty days 660
for good cause shown. 661

(E) Nothing in this section precludes a financial 662
institution that has or purports to have a security interest in 663
or lien on property described in section 2981.02 of the Revised 664
Code from filing an action in connection with the property, 665
prior to its disposition under this chapter, to obtain 666

possession of the property in order to foreclose or otherwise 667
enforce the security interest or lien. 668

If a financial institution commences a civil action or 669
takes any other appropriate legal action to sell the property 670
prior to its seizure or prior to its disposition under this 671
chapter, if the person who is responsible for conducting the 672
sale has actual knowledge of the commencement of a forfeiture 673
action under ~~either~~ section 2981.04 ~~or 2981.05~~ of the Revised 674
Code, and if the property is sold, then the person shall dispose 675
of the proceeds of the sale in the following order: 676

(1) First, to the payment of the costs of the sale, 677
excluding any associated attorney's fees, and to the payment of 678
the costs incurred by law enforcement agencies and financial 679
institutions in connection with the seizure, storage, and 680
maintenance of, and provision of security for, the property; 681

(2) Second, in the order of priority of the security 682
interests and liens, to the payment of valid security interests 683
and liens pertaining to the property that, at the time at which 684
the state or political subdivision gains provisional title, are 685
held by known secured parties and lienholders; 686

(3) Third, to the court that has or would have 687
jurisdiction in a case or proceeding under section 2981.04 ~~or~~ 688
~~section 2981.05~~ of the Revised Code for disposition under this 689
chapter. 690

~~(F) A prosecutor may file a forfeiture action under 691
section 2981.04 or 2981.05 of the Revised Code, or both. If 692
property is seized pursuant to this section and a criminal 693
forfeiture has not begun under section 2981.04 of the Revised 694
Code, the prosecutor of the county in which the seizure occurred 695~~

~~shall commence a civil action to forfeit that property under
section 2981.05 of the Revised Code.~~ 696
697

~~If the property seized includes property alleged to be a
mobile instrumentality or includes personal, business, or
governmental records, the civil forfeiture action shall be
brought within thirty days of seizure. Otherwise, the action
shall be brought within sixty days of seizure. In either case,
the period within which the action shall be brought may be
extended by agreement of the parties or by the court for good
cause shown.~~ 698
699
700
701
702
703
704
705

~~A prosecutor may file an appropriate charging instrument
under section 2981.04 of the Revised Code to seek a criminal
forfeiture after a civil forfeiture action begins. Filing a
charging instrument for an offense that is also the basis of a
civil forfeiture action shall stay the civil action.~~ 706
707
708
709
710

~~A civil action to obtain civil forfeiture may be commenced
as described in section 2981.05 of the Revised Code regardless
of whether the offender or delinquent child has pleaded guilty
to, been convicted of, or been adjudicated a delinquent child
for the act that is the basis of the order.~~ 711
712
713
714
715

~~(G) The prosecutor shall maintain an accurate record of
each item disposed of under section 2981.04 or 2981.05 of the
Revised Code. The record shall not identify or enable the
identification of the officer who seized the property. The
record is a public record open for inspection under section
149.43 of the Revised Code.~~ 716
717
718
719
720
721

Sec. 2981.04. (A) (1) Property described in division (A) of 722
section 2981.02 of the Revised Code may be forfeited under this 723
section only if the defendant is convicted of an offense or the 724

juvenile is adjudicated a delinquent child for committing an act 725
that would be an offense if committed by an adult and the 726
complaint, indictment, or information charging the offense or 727
municipal violation, or the complaint charging the delinquent 728
act, contains a specification of the type described in section 729
2941.1417 of the Revised Code that sets forth all of the 730
following to the extent it is reasonably known at the time of 731
the filing: 732

(a) The nature and extent of the alleged offender's or 733
delinquent child's interest in the property; 734

(b) A description of the property; 735

(c) If the property is alleged to be an instrumentality, 736
the alleged use or intended use of the property in the 737
commission or facilitation of the offense. 738

(2) If any property is not reasonably foreseen to be 739
subject to forfeiture at the time of filing the indictment, 740
information, or complaint, the trier of fact still may return a 741
verdict of forfeiture concerning that property in the hearing 742
described in division (B) of this section if the prosecutor, 743
upon discovering the property to be subject to forfeiture, gave 744
prompt notice of this fact to the alleged offender or delinquent 745
child under Criminal Rule 7(E) or Juvenile Rule 10(B). 746

~~(3) For good cause shown, the court may consider issues of~~ 747
~~the guilt of the alleged offender or the delinquency of the~~ 748
~~alleged delinquent child separate from whether property~~ 749
~~specified as subject to forfeiture should be forfeited.~~ 750

(B) If a person pleads guilty to or is convicted of an 751
offense or is adjudicated a delinquent child for committing a 752
delinquent act and the complaint, indictment, or information 753

charging the offense or act contains a specification covering 754
property subject to forfeiture under section 2981.02 of the 755
Revised Code, the trier of fact shall determine whether the 756
person's property shall be forfeited. If the state or political 757
subdivision proves by a ~~preponderance of the~~ clear and 758
convincing evidence that the property is in whole or part 759
subject to forfeiture under section 2981.02 of the Revised Code, 760
after a proportionality review under section 2981.09 of the 761
Revised Code when relevant, the trier of fact shall return a 762
verdict of forfeiture that specifically describes the extent of 763
the property subject to forfeiture. If the trier of fact is a 764
jury, on the offender's or delinquent child's motion, the court 765
shall make the determination of whether the property shall be 766
forfeited. 767

(C) If the court enters a verdict of forfeiture under this 768
section, the court imposing sentence or disposition, in addition 769
to any other sentence authorized by Chapter 2929. of the Revised 770
Code or any disposition authorized by Chapter 2152. of the 771
Revised Code, shall order that the offender or delinquent child 772
forfeit to the state or political subdivision the offender's or 773
delinquent child's interest in the property. The property vests 774
with the state or political subdivision subject to the claims of 775
third parties. The court may issue any additional order to 776
affect the forfeiture, including, but not limited to, an order 777
under section 2981.06 of the Revised Code. 778

(D) After the entry of a forfeiture order under this 779
section, the prosecutor shall attempt to identify any person 780
with an interest in the property subject to forfeiture by 781
searching appropriate public records and making reasonably 782
diligent inquiries. The prosecutor shall give notice of the 783
forfeiture that remains subject to the claims of third parties 784

and proposed disposal of the forfeited property to any person 785
known to have an interest in the property. The prosecutor also 786
shall publish notice of the forfeiture that remains subject to 787
the claims of third parties and proposed disposal of the 788
forfeited property once each week for two consecutive weeks in a 789
newspaper of general circulation in the county in which the 790
property was seized. 791

(E) (1) Any person, other than the offender or delinquent 792
child whose conviction or plea of guilty or delinquency 793
adjudication is the basis of the forfeiture order, who asserts a 794
legal interest in the property that is the subject of the order 795
may petition the court that issued the order for a hearing under 796
division (E) (3) of this section to adjudicate the validity of 797
the person's alleged interest in the property. All of the 798
following apply to the petition: 799

(a) It shall be filed within thirty days after the final 800
publication of notice or the person's receipt of notice under 801
division (D) of this section. 802

(b) It shall be signed by the petitioner under the 803
penalties for falsification specified in section 2921.13 of the 804
Revised Code. 805

(c) It shall describe the nature and extent of the 806
petitioner's interest in the property, the time and 807
circumstances of the petitioner's acquisition of that interest, 808
any additional facts supporting the petitioner's claim, and the 809
relief sought. 810

(d) It shall state that one of the following conditions 811
applies to the petitioner: 812

(i) The petitioner has a legal interest in the property 813

that is subject to the forfeiture order that renders the order 814
completely or partially invalid because the legal interest in 815
the property was vested in the petitioner, rather than the 816
offender or delinquent child whose conviction or plea of guilty 817
or delinquency adjudication is the basis of the order, or was 818
superior to any interest of that offender or delinquent child, 819
at the time of the commission of the offense or delinquent act 820
that is the basis of the order. 821

(ii) The petitioner is a bona fide purchaser for value of 822
the interest in the property that is subject to the forfeiture 823
order and was, at the time of the purchase, reasonably without 824
cause to believe that it was subject to forfeiture. 825

(2) (a) In lieu of filing a petition as described in 826
division (E) (1) of this section, a person, other than the 827
offender or delinquent child whose conviction or plea of guilty 828
or delinquency adjudication is the basis of the forfeiture 829
order, may file an affidavit as described in this division to 830
establish the validity of the alleged right, title, or interest 831
in the property that is the subject of the forfeiture order if 832
the person is a secured party or other lienholder of record that 833
asserts a legal interest in the property, including, but not 834
limited to, a mortgage, security interest, or other type of 835
lien. The affidavit shall contain averments that the secured 836
party or other lienholder acquired its alleged right, title, or 837
interest in the property in the regular course of its business, 838
for a specified valuable consideration, without actual knowledge 839
of any facts pertaining to the offense that was the basis of the 840
forfeiture order, in good faith, and without the intent to 841
prevent or otherwise impede the state or political subdivision 842
from seizing or obtaining a forfeiture of the property. The 843
person shall file the affidavit within thirty days after the 844

earlier of the final publication of notice or the receipt of 845
notice under division (D) of this section. 846

(b) Except as otherwise provided in this section, the 847
affidavit shall constitute prima-facie evidence of the validity 848
of the affiant's alleged interest in the property. 849

(c) Unless the prosecutor files a motion challenging the 850
affidavit within ten days after its filing and unless the 851
prosecutor establishes by a ~~preponderance of the~~ clear and 852
convincing evidence at the hearing held under division (E) (3) of 853
this section that the affiant does not possess the alleged 854
interest in the property or that the affiant had actual 855
knowledge of facts pertaining to the offense or delinquent act 856
that was the basis of the forfeiture order, the affidavit shall 857
constitute conclusive evidence of the validity of the affiant's 858
interest in the property. 859

(d) Any subsequent purchaser or other transferee of 860
property pursuant to forfeiture under this section shall take 861
the property subject to the continued validity of the interest 862
of the affiant. 863

(3) Upon receipt of a petition or affidavit filed under 864
division (E) (1) or (2) of this section, the court shall hold a 865
hearing to determine the validity of the petitioner's interest 866
in the property that is the subject of the forfeiture order or, 867
if the affidavit was challenged, to determine the validity of 868
the affiant's interest in the property. To the extent 869
practicable and consistent with the interests of justice, the 870
court shall hold the hearing within thirty days after the filing 871
of the petition or within thirty days after the prosecutor files 872
the motion challenging the affidavit. The court may consolidate 873
the hearing with a hearing on any other petition or affidavit 874

that is filed by a person other than the offender or delinquent 875
child whose conviction or plea of guilty or delinquency 876
adjudication is the basis of the forfeiture order and that 877
relates to the property that is the subject of the forfeiture 878
order. 879

At the hearing, the petitioner or affiant may testify, 880
present evidence and witnesses on the petitioner's or affiant's 881
behalf, and cross-examine witnesses for the state or political 882
subdivision. In regards to a petition, the state or political 883
subdivision may present evidence and witnesses in rebuttal and 884
in defense of its claim to the property and may cross-examine 885
witnesses for the petitioner. In regards to an affidavit, the 886
prosecutor may present evidence and witnesses and cross-examine 887
witnesses for the affiant. 888

In addition to the evidence and testimony presented at the 889
hearing, the court also shall consider the relevant portions of 890
the record in the criminal or delinquent child case that 891
resulted in the forfeiture order. 892

(F) (1) If the hearing involves a petition, the court shall 893
amend its forfeiture order if in favor of the petitioner unless 894
it determines at the hearing held pursuant to division (E) (3) of 895
this section that the petitioner prosecutor has established 896
either of the following by a preponderance of the clear and 897
convincing evidence:+ 898

~~(a) The petitioner has a legal interest in the property~~ 899
~~that is subject to the forfeiture order that renders the order~~ 900
~~completely or partially invalid because the legal interest in~~ 901
~~the property was vested in the petitioner, rather than the~~ 902
~~offender or delinquent child whose conviction or plea of guilty~~ 903
~~or delinquency adjudication is the basis of the order, or was~~ 904

~~superior to any interest of that offender or delinquent child,~~ 905
~~at the time of the commission of the offense or delinquent act~~ 906
~~that is the basis of the order.~~ 907

~~(b) The petitioner is a bona fide purchaser for value of~~ 908
~~the interest in the property that is subject to the forfeiture~~ 909
~~order and was, at the time of the purchase, reasonably without~~ 910
~~cause to believe that it was subject~~ that the applicable 911
condition alleged by the petitioner under division (E) (1) (d) of 912
this section does not apply to forfeiture ~~the petitioner.~~ 913

(2) The court also shall amend its forfeiture order to 914
reflect any interest of a secured party or other lienholder of 915
record in the property subject to forfeiture who prevails at a 916
hearing on the petition or affidavit filed pursuant to division 917
(E) (1) or (2) of this section. 918

(G) If the court disposes of all petitions or affidavits 919
timely filed under this section in favor of the state or 920
political subdivision, the state or political subdivision shall 921
have clear title to the property that is the subject of a 922
forfeiture order issued under this section, but only to the 923
extent that other parties' lawful interests in the property are 924
not infringed. To the extent that the state or political 925
subdivision has clear title to the property, the state or 926
political subdivision may warrant good title to any subsequent 927
purchaser or other transferee. 928

Sec. 2981.06. (A) Upon the entry of a forfeiture order 929
under section 2981.04 ~~or 2981.05~~ of the Revised Code, if 930
necessary, the court shall order an appropriate law enforcement 931
officer to seize the forfeited property on conditions that the 932
court considers proper. If necessary, the court shall order the 933
person in possession of the property to deliver the property by 934

a specific date to the law enforcement agency involved in the 935
initial seizure of the property. The court shall deliver the 936
order by personal service or certified mail. 937

(B) With respect to property that is the subject of a 938
forfeiture order issued under section 2981.04 ~~or 2981.05~~ of the 939
Revised Code, the court that issued the order, upon petition of 940
the prosecutor who prosecuted the underlying offense or act ~~or~~ 941
~~brought the civil forfeiture action~~, may do any of the 942
following: 943

(1) Enter any appropriate restraining orders or 944
injunctions; require execution of satisfactory performance 945
bonds; appoint receivers, conservators, appraisers, accountants, 946
or trustees; or take any other action necessary to safeguard and 947
maintain the forfeited property; 948

(2) Authorize the payment of rewards to persons who 949
provide information resulting in forfeiture of the property 950
under this chapter from funds provided under division (F) of 951
section 2981.12 of the Revised Code; 952

(3) Authorize the prosecutor to settle claims; 953

(4) Restore forfeited property to victims and grant 954
petitions for mitigation or remission of forfeiture; 955

(5) Authorize a stay of the forfeiture order pending 956
appeal or resolution of any claim to the property if requested 957
by a person other than the defendant or a person acting in 958
concert with, or on behalf of, the defendant. 959

(C) To facilitate the identification and location of 960
property that is the subject of a forfeiture order and to 961
facilitate the disposition of petitions for remission or 962
mitigation issued under this section, after the issuance of a 963

forfeiture order and upon application by the prosecutor, the 964
court, consistent with the Civil Rules, may order that the 965
testimony of any witness relating to the forfeited property be 966
taken by deposition and that any designated material that is not 967
privileged be produced at the same time and place as the 968
testimony. 969

(D) ~~(1)~~ The court shall order forfeiture of any other 970
property of the offender or delinquent child up to the value of 971
the unreachable property if the state or political subdivision 972
demonstrates by clear and convincing evidence that any of the 973
following describe any property subject to a forfeiture order 974
under section ~~2981.04 or 2981.05~~ of the Revised Code: 975

~~(1)~~ ~~(a)~~ It cannot be located through due diligence. 976

~~(2)~~ ~~It~~ ~~(b)~~ Subject to division (D) (2) of this section, it 977
has been transferred, sold, or deposited with a third party. 978

~~(3)~~ ~~(c)~~ It has been placed beyond the jurisdiction of the 979
court. 980

~~(4)~~ ~~(d)~~ It has been substantially diminished in value or 981
has been commingled with other property and cannot be divided 982
without difficulty or undue injury to innocent persons. 983

(2) If property that is subject to a forfeiture order 984
under section 2981.04 of the Revised Code has been transferred, 985
sold, or deposited with a third party, the court shall order 986
forfeiture of the transferred, sold, or deposited property 987
instead of ordering the forfeiture of other property under 988
division (D) (1) of this section if the state or political 989
subdivision demonstrates by clear and convincing evidence that 990
the transferred, sold, or deposited property was transferred, 991
sold, or deposited in violation of section 2981.07 of the 992

<u>Revised Code.</u>	993
<u>(3) The requirements of divisions (D), (E), and (F) of</u>	994
<u>section 2981.04 of the Revised Code apply to property forfeited</u>	995
<u>under division (D)(1) or (2) of this section.</u>	996
(E) After the state or political subdivision is granted	997
clear title under section 2981.04 or 2981.05 of the Revised	998
Code, the prosecutor shall direct disposition of the property	999
pursuant to this chapter, making due provisions for the rights	1000
of innocent persons.	1001
(F) Any interest in property not exercisable by, or	1002
transferable for value to, the state or political subdivision	1003
shall expire and shall not revert to the offender or delinquent	1004
child who forfeited the property. The offender or delinquent	1005
child is not eligible to purchase the property at a sale under	1006
this chapter.	1007
(G) Any income accruing to or derived from forfeited	1008
property may be used to offset ordinary and necessary expenses	1009
related to the property that are required by law or necessary to	1010
protect the interest of the state, political subdivision, or	1011
third parties.	1012
Sec. 2981.08. Parties to <u>The defendant in</u> a forfeiture	1013
action under this chapter have <u>has</u> a right to trial by jury as	1014
follows:	1015
(A) In a criminal forfeiture action, the defendant has the	1016
right to trial by jury.	1017
(B) In a civil forfeiture action, the defendant, the state	1018
or political subdivision, and third party claimants have the	1019
right to trial by jury.	1020

Sec. 2981.09. (A) Property may not be forfeited as an 1021
instrumentality under this chapter to the extent that the amount 1022
or value of the property is disproportionate to the severity of 1023
the offense. The ~~owner of the property~~ state or political 1024
subdivision shall have the burden of going forward with the 1025
evidence and the burden to prove by a ~~preponderance of the clear~~ 1026
and convincing evidence that the amount or value of the property 1027
subject to forfeiture is ~~disproportionate~~ proportionate to the 1028
severity of the offense. 1029

(B) Contraband and any proceeds obtained from the offense 1030
are not subject to proportionality review under this section. 1031

(C) In determining the severity of the offense for 1032
purposes of forfeiture of an instrumentality, the court shall 1033
consider all relevant factors including, but not limited to, the 1034
following: 1035

(1) The seriousness of the offense and its impact on the 1036
community, including the duration of the activity and the harm 1037
caused or intended by the person whose property is subject to 1038
forfeiture; 1039

(2) The extent to which the person whose property is 1040
subject to forfeiture participated in the offense; 1041

(3) Whether the offense was completed or attempted; 1042

(4) The extent to which the property was used in 1043
committing the offense; 1044

(5) The sentence imposed for committing the offense that 1045
is the basis of the forfeiture. 1046

(D) In determining the value of the property that is an 1047
instrumentality and that is subject to forfeiture, the court 1048

shall consider relevant factors including, but not limited to, 1049
the following: 1050

(1) The fair market value of the property; 1051

(2) The value of the property to the person whose property 1052
is subject to forfeiture, including hardship to the person or to 1053
innocent persons if the property were forfeited. 1054

Sec. 2981.11. (A) (1) Any property that has been lost, 1055
abandoned, stolen, seized pursuant to a search warrant, or 1056
otherwise lawfully seized or forfeited and that is in the 1057
custody of a law enforcement agency shall be kept safely by the 1058
agency, pending the time it no longer is needed as evidence or 1059
for another lawful purpose, and shall be disposed of pursuant to 1060
sections 2981.12 and 2981.13 of the Revised Code. 1061

(2) This chapter does not apply to the custody and 1062
disposal of any of the following: 1063

(a) Vehicles subject to forfeiture under Title XLV of the 1064
Revised Code, except as provided in division (A) (6) of section 1065
2981.12 of the Revised Code; 1066

(b) Abandoned junk motor vehicles or other property of 1067
negligible value; 1068

(c) Property held by a department of rehabilitation and 1069
correction institution that is unclaimed, that does not have an 1070
identified owner, that the owner agrees to dispose of, or that 1071
is identified by the department as having little value; 1072

(d) Animals taken, and devices used in unlawfully taking 1073
animals, under section 1531.20 of the Revised Code; 1074

(e) Controlled substances sold by a peace officer in the 1075
performance of the officer's official duties under section 1076

3719.141 of the Revised Code;	1077
(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code;	1078 1079
(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.	1080 1081 1082 1083 1084 1085 1086 1087
(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:	1088 1089 1090 1091
(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;	1092 1093 1094
(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:	1095 1096 1097
(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.	1098 1099 1100 1101 1102
(ii) The general types <u>An itemized list of the specific</u> expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the	1103 1104 1105

specific amount expended on each ~~general type of~~ expenditure, 1106
except that the policy shall not provide for or permit the 1107
identification of any specific expenditure that is made in an 1108
ongoing investigation. 1109

(c) Complies with section 2981.13 of the Revised Code if 1110
the agency has a law enforcement trust fund or similar fund 1111
created under that section. 1112

(2) The records kept under the internal control policy 1113
shall be open to public inspection during the agency's regular 1114
business hours. The policy adopted under this section is a 1115
public record open for inspection under section 149.43 of the 1116
Revised Code. 1117

(C) A law enforcement agency with custody of property to 1118
be disposed of under section 2981.12 or 2981.13 of the Revised 1119
Code shall make a reasonable effort to locate persons entitled 1120
to possession of the property, to notify them of when and where 1121
it may be claimed, and to return the property to them at the 1122
earliest possible time. In the absence of evidence identifying 1123
persons entitled to possession, it is sufficient notice to 1124
advertise in a newspaper of general circulation in the county 1125
and to briefly describe the nature of the property in custody 1126
and inviting persons to view and establish their right to it. 1127

(D) As used in sections 2981.11 to 2981.13 of the Revised 1128
Code: 1129

(1) "Citizens' reward program" has the same meaning as in 1130
section 9.92 of the Revised Code. 1131

(2) "Law enforcement agency" includes correctional 1132
institutions. 1133

(3) "Township law enforcement agency" means an organized 1134

police department of a township, a township police district, a joint police district, or the office of a township constable.

Sec. 2981.12. (A) Unclaimed or forfeited property in the custody of a law enforcement agency, other than property described in division (A)(2) of section 2981.11 of the Revised Code, shall be disposed of by order of any court of record that has territorial jurisdiction over the political subdivision that employs the law enforcement agency, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B) of this section. The agency may sell other firearms and dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The agency shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Chapters 4301. and 4303. of the Revised Code or otherwise forfeited to the state for an offense under section 4301.45 or 4301.53 of the Revised Code shall be sold by the division of liquor control if

the division determines that it is fit for sale or shall be 1164
placed in the custody of the investigations unit in the 1165
department of public safety and be used for training relating to 1166
law enforcement activities. The department, with the assistance 1167
of the division of liquor control, shall adopt rules in 1168
accordance with Chapter 119. of the Revised Code to provide for 1169
the distribution to state or local law enforcement agencies upon 1170
their request. If any tax imposed under Title XLIII of the 1171
Revised Code has not been paid in relation to the beer, 1172
intoxicating liquor, or alcohol, any moneys acquired from the 1173
sale shall first be used to pay the tax. All other money 1174
collected under this division shall be paid into the state 1175
treasury. Any beer, intoxicating liquor, or alcohol that the 1176
division determines to be unfit for sale shall be destroyed. 1177

(5) Money received by an inmate of a correctional 1178
institution from an unauthorized source or in an unauthorized 1179
manner shall be returned to the sender, if known, or deposited 1180
in the inmates' industrial and entertainment fund of the 1181
institution if the sender is not known. 1182

(6) (a) Any mobile instrumentality forfeited under this 1183
chapter may be given to the law enforcement agency that 1184
initially seized the mobile instrumentality for use in 1185
performing its duties, if the agency wants the mobile 1186
instrumentality. The agency shall take the mobile 1187
instrumentality subject to any security interest or lien on the 1188
mobile instrumentality. 1189

(b) Vehicles and vehicle parts forfeited under sections 1190
4549.61 to 4549.63 of the Revised Code may be given to a law 1191
enforcement agency for use in performing its duties. Those parts 1192
may be incorporated into any other official vehicle. Parts that 1193

do not bear vehicle identification numbers or derivatives of 1194
them may be sold or disposed of as provided by rules of the 1195
director of public safety. Parts from which a vehicle 1196
identification number or derivative of it has been removed, 1197
defaced, covered, altered, or destroyed and that are not 1198
suitable for police work or incorporation into an official 1199
vehicle shall be destroyed and sold as junk or scrap. 1200

(7) Computers, computer networks, computer systems, and 1201
computer software suitable for police work may be given to a law 1202
enforcement agency for that purpose or disposed of under 1203
division (B) of this section. 1204

(8) Money seized in connection with a violation of section 1205
2905.32, 2907.21, or 2907.22 of the Revised Code shall be 1206
deposited in the victims of human trafficking fund created by 1207
section 5101.87 of the Revised Code. 1208

(B) Unclaimed or forfeited property that is not described 1209
in division (A) of this section or division (A)(2) of section 1210
2981.11 of the Revised Code, with court approval, may be used by 1211
the law enforcement agency in possession of it. If it is not 1212
used by the agency, it may be sold without appraisal at a public 1213
auction to the highest bidder for cash or disposed of in another 1214
manner that the court considers proper. 1215

(C) Except as provided in divisions (A) and (F) of this 1216
section and after compliance with division (D) of this section 1217
~~when applicable~~, any moneys acquired from the sale of property 1218
disposed of pursuant to this section shall be placed in the 1219
general revenue fund of the state, or the general fund of the 1220
county, the township, or the municipal corporation of which the 1221
law enforcement agency involved is an agency. 1222

(D) If the property was in the possession of the law 1223
enforcement agency in relation to a criminal proceeding or a 1224
delinquent child proceeding in a juvenile court, ten per cent of 1225
any moneys acquired from the sale of property disposed of under 1226
this section shall be applied to one or more community addiction 1227
services providers, as defined in section 5119.01 of the Revised 1228
Code. A ~~juvenile~~ court shall not specify a services provider, 1229
except as provided in this division, unless the services 1230
provider is in the same county as the court or in a contiguous 1231
county. If no services provider is located in any of those 1232
counties, the ~~juvenile~~ court may specify a services provider 1233
anywhere in Ohio. The remaining ninety per cent of the proceeds 1234
or cash shall be applied as provided in division (C) of this 1235
section. 1236

Each services provider that receives in any calendar year 1237
forfeited money under this division shall file an annual report 1238
for that year with the attorney general and with the court of 1239
common pleas and board of county commissioners of the county in 1240
which the services provider is located and of any other county 1241
from which the services provider received forfeited money. The 1242
services provider shall file the report on or before the first 1243
day of March in the calendar year following the calendar year in 1244
which the services provider received the money. The report shall 1245
include statistics on the number of persons the services 1246
provider served, identify the types of treatment services it 1247
provided to them, and include a specific accounting of the 1248
purposes for which it used the money so received. No information 1249
contained in the report shall identify, or enable a person to 1250
determine the identity of, any person served by the services 1251
provider. 1252

(E) Each community addiction services provider that 1253

receives in any calendar year money under this section or under 1254
section 2981.13 of the Revised Code as the result of a ~~juvenile~~ 1255
forfeiture order shall file an annual report for that calendar 1256
year with the attorney general and with the court of common 1257
pleas and board of county commissioners of the county in which 1258
the services provider is located and of any other county from 1259
which the services provider received the money. The services 1260
provider shall file the report on or before the first day of 1261
March in the calendar year following the year in which the 1262
services provider received the money. The report shall include 1263
statistics on the number of persons served with the money, 1264
identify the types of treatment services provided, and 1265
specifically account for how the money was used. No information 1266
in the report shall identify or enable a person to determine the 1267
identity of anyone served by the services provider. 1268

As used in this division, "~~juvenile-related forfeiture~~ 1269
order" means any forfeiture order issued by a ~~juvenile~~ court 1270
under section 2981.04 ~~or 2981.05~~ of the Revised Code and any 1271
disposal of property ordered by a court under section 2981.11 of 1272
the Revised Code regarding property that was in the possession 1273
of a law enforcement agency in relation to a criminal proceeding 1274
or to a delinquent child proceeding in a juvenile court. 1275

(F) Each board of county commissioners that recognizes a 1276
citizens' reward program under section 9.92 of the Revised Code 1277
shall notify each law enforcement agency of that county and of a 1278
township or municipal corporation wholly located in that county 1279
of the recognition by filing a copy of its resolution conferring 1280
that recognition with each of those agencies. When the board 1281
recognizes a citizens' reward program and the county includes a 1282
part, but not all, of the territory of a municipal corporation, 1283
the board shall so notify the law enforcement agency of that 1284

municipal corporation of the recognition of the citizens' reward 1285
program only if the county contains the highest percentage of 1286
the municipal corporation's population. 1287

Upon being so notified, each law enforcement agency shall 1288
pay twenty-five per cent of any forfeited proceeds or cash 1289
derived from each sale of property disposed of pursuant to this 1290
section to the citizens' reward program for use exclusively to 1291
pay rewards. No part of the funds may be used to pay expenses 1292
associated with the program. If a citizens' reward program that 1293
operates in more than one county or in another state in addition 1294
to this state receives funds under this section, the funds shall 1295
be used to pay rewards only for tips and information to law 1296
enforcement agencies concerning offenses committed in the county 1297
from which the funds were received. 1298

Receiving funds under this section or section 2981.11 of 1299
the Revised Code does not make the citizens' reward program a 1300
governmental unit or public office for purposes of section 1301
149.43 of the Revised Code. 1302

(G) Any property forfeited under this chapter shall not be 1303
used to pay any fine imposed upon a person who is convicted of 1304
or pleads guilty to an underlying criminal offense or a 1305
different offense arising out of the same facts and 1306
circumstances. 1307

(H) Any moneys acquired from the sale of personal effects, 1308
tools, or other property seized because the personal effects, 1309
tools, or other property were used in the commission of a 1310
violation of section 2905.32, 2907.21, or 2907.22 of the Revised 1311
Code or derived from the proceeds of the commission of a 1312
violation of section 2905.32, 2907.21, or 2907.22 of the Revised 1313
Code and disposed of pursuant to this section shall be placed in 1314

the victims of human trafficking fund created by section 5101.87 1315
of the Revised Code. 1316

Sec. 2981.13. (A) Except as otherwise provided in this 1317
section, property ordered forfeited as contraband, proceeds, or 1318
an instrumentality pursuant to this chapter shall be disposed 1319
of, used, or sold pursuant to section 2981.12 of the Revised 1320
Code. If the property is to be sold under that section, the 1321
prosecutor shall cause notice of the proposed sale to be given 1322
in accordance with law. 1323

(B) If the contraband or instrumentality forfeited under 1324
this chapter is sold, any moneys acquired from a sale and any 1325
proceeds forfeited under this chapter shall be applied in the 1326
following order: 1327

(1) First, to pay costs incurred in the seizure, storage, 1328
maintenance, security, and sale of the property and in the 1329
forfeiture proceeding; 1330

(2) Second, ~~in a criminal forfeiture case,~~ to satisfy any 1331
restitution ordered to the victim of the offense ~~or, in a civil~~ 1332
~~forfeiture case, to satisfy any recovery ordered for the person~~ 1333
~~harmed,~~ unless paid from other assets; 1334

(3) Third, to pay the balance due on any security interest 1335
preserved under this chapter; 1336

(4) Fourth, apply the remaining amounts as follows: 1337

(a) ~~If the forfeiture was ordered by a juvenile court, ten-~~ 1338
Ten per cent to one or more community addiction services 1339
providers as specified in division (D) of section 2981.12 of the 1340
Revised Code; 1341

(b) ~~If the forfeiture was ordered in a juvenile court,~~ 1342

~~ninety~~ Ninety per cent, ~~and if the forfeiture was ordered in a~~ 1343
~~court other than a juvenile court, one hundred per cent~~ to the 1344
law enforcement trust fund of the prosecutor and to the 1345
following fund supporting the law enforcement agency that 1346
substantially conducted the investigation: 1347

(i) The law enforcement trust fund of the county sheriff, 1348
municipal corporation, township, or park district created under 1349
section 511.18 or 1545.01 of the Revised Code; 1350

(ii) The state highway patrol contraband, forfeiture, and 1351
other fund; 1352

(iii) The department of public safety investigative unit 1353
contraband, forfeiture, and other fund; 1354

(iv) The department of taxation enforcement fund; 1355

(v) The board of pharmacy drug law enforcement fund 1356
created by division (B) (1) of section 4729.65 of the Revised 1357
Code; 1358

(vi) The medicaid fraud investigation and prosecution 1359
fund; 1360

(vii) The casino control commission enforcement fund 1361
created by section 3772.36 of the Revised Code; 1362

(viii) The auditor of state investigation and forfeiture 1363
trust fund established under section 117.54 of the Revised Code; 1364

(ix) The treasurer of state for deposit into the peace 1365
officer training commission fund if any other state law 1366
enforcement agency substantially conducted the investigation. 1367

In the case of property forfeited for medicaid fraud, any 1368
remaining amount shall be used by the attorney general to 1369

investigate and prosecute medicaid fraud offenses. 1370

If the prosecutor declines to accept any of the remaining 1371
amounts, the amounts shall be applied to the fund of the agency 1372
that substantially conducted the investigation. 1373

(c) If more than one law enforcement agency is 1374
substantially involved in the seizure of property forfeited 1375
under this chapter, the court ordering the forfeiture shall 1376
equitably divide the amounts, after calculating any distribution 1377
to the law enforcement trust fund of the prosecutor pursuant to 1378
division (B) (4) of this section, among the entities that the 1379
court determines were substantially involved in the seizure. 1380

(C) (1) A law enforcement trust fund shall be established 1381
by the prosecutor of each county who intends to receive any 1382
remaining amounts pursuant to this section, by the sheriff of 1383
each county, by the legislative authority of each municipal 1384
corporation, by the board of township trustees of each township 1385
that has a township police department, township or joint police 1386
district police force, or office of the constable, and by the 1387
board of park commissioners of each park district created 1388
pursuant to section 511.18 or 1545.01 of the Revised Code that 1389
has a park district police force or law enforcement department, 1390
for the purposes of this section. 1391

There is hereby created in the state treasury the state 1392
highway patrol contraband, forfeiture, and other fund, the 1393
department of public safety investigative unit contraband, 1394
forfeiture, and other fund, the medicaid fraud investigation and 1395
prosecution fund, the department of taxation enforcement fund, 1396
and the peace officer training commission fund, for the purposes 1397
of this section. 1398

Amounts distributed to any municipal corporation, 1399
township, or park district law enforcement trust fund shall be 1400
allocated from the fund by the legislative authority only to the 1401
police department of the municipal corporation, by the board of 1402
township trustees only to the township police department, 1403
township police district police force, or office of the 1404
constable, by the joint police district board only to the joint 1405
police district, and by the board of park commissioners only to 1406
the park district police force or law enforcement department. 1407

(2) (a) No amounts shall be allocated to a fund under this 1408
section or used by an agency unless the agency has adopted a 1409
written internal control policy that addresses the use of moneys 1410
received from the appropriate fund. The appropriate fund shall 1411
be expended only in accordance with that policy and, subject to 1412
the requirements specified in this section, only for the 1413
following purposes: 1414

(i) To pay the costs of protracted or complex 1415
investigations or prosecutions; 1416

(ii) To provide reasonable technical training or 1417
expertise; 1418

(iii) To provide matching funds to obtain federal grants 1419
to aid law enforcement, in the support of DARE programs or other 1420
programs designed to educate adults or children with respect to 1421
the dangers associated with the use of drugs of abuse; 1422

(iv) To pay the costs of emergency action taken under 1423
section 3745.13 of the Revised Code relative to the operation of 1424
an illegal methamphetamine laboratory if the forfeited property 1425
or money involved was that of a person responsible for the 1426
operation of the laboratory; 1427

(v) ~~For other law enforcement purposes that the~~ 1428
~~superintendent of the state highway patrol, department of public~~ 1429
~~safety, auditor of state, prosecutor, county sheriff,~~ 1430
~~legislative authority, department of taxation, Ohio casino~~ 1431
~~control commission, board of township trustees, or board of park~~ 1432
~~commissioners determines to be appropriate~~To purchase personal 1433
safety equipment or apparel. 1434

(b) The board of pharmacy drug law enforcement fund shall 1435
be expended only in accordance with the written internal control 1436
policy so adopted by the board and only in accordance with 1437
section 4729.65 of the Revised Code, except that it also may be 1438
expended to pay the costs of emergency action taken under 1439
section 3745.13 of the Revised Code relative to the operation of 1440
an illegal methamphetamine laboratory if the forfeited property 1441
or money involved was that of a person responsible for the 1442
operation of the laboratory. 1443

(c) A fund listed in division (B) (4) (b) of this section, 1444
other than the Medicaid fraud investigation and prosecution 1445
fund, shall not be used to meet the operating costs of the 1446
agency, office, or political subdivision that are unrelated to 1447
law enforcement. 1448

(d) Forfeited moneys that are paid into the state treasury 1449
to be deposited into the peace officer training commission fund 1450
shall be used by the commission only to pay the costs of peace 1451
officer training. 1452

(3) Any of the following offices or agencies that receive 1453
amounts under this section during any calendar year shall file a 1454
report with the specified entity, not later than the thirty- 1455
first day of January of the next calendar year, verifying that 1456
the moneys were expended only for the purposes authorized by 1457

this section or other relevant statute and specifying the 1458
amounts expended for each authorized purpose: 1459

(a) Any sheriff or prosecutor shall file the report with 1460
the county auditor. 1461

(b) Any municipal corporation police department shall file 1462
the report with the legislative authority of the municipal 1463
corporation. 1464

(c) Any township police department, township or joint 1465
police district police force, or office of the constable shall 1466
file the report with the board of township trustees of the 1467
township. 1468

(d) Any park district police force or law enforcement 1469
department shall file the report with the board of park 1470
commissioners of the park district. 1471

(e) The superintendent of the state highway patrol, the 1472
auditor of state, and the tax commissioner shall file the report 1473
with the attorney general. 1474

(f) The executive director of the state board of pharmacy 1475
shall file the report with the attorney general, verifying that 1476
cash and forfeited proceeds paid into the board of pharmacy drug 1477
law enforcement fund were used only in accordance with section 1478
4729.65 of the Revised Code. 1479

(g) The peace officer training commission shall file a 1480
report with the attorney general, verifying that cash and 1481
forfeited proceeds paid into the peace officer training 1482
commission fund pursuant to this section during the prior 1483
calendar year were used by the commission during the prior 1484
calendar year only to pay the costs of peace officer training. 1485

(h) The executive director of the Ohio casino control 1486
commission shall file the report with the attorney general, 1487
verifying that cash and forfeited proceeds paid into the casino 1488
control commission enforcement fund were used only in accordance 1489
with section 3772.36 of the Revised Code. 1490

(D) The written internal control policy of a county 1491
sheriff, prosecutor, municipal corporation police department, 1492
township police department, township or joint police district 1493
police force, office of the constable, or park district police 1494
force or law enforcement department shall provide that at least 1495
ten per cent of the first one hundred thousand dollars of 1496
amounts deposited during each calendar year in the agency's law 1497
enforcement trust fund under this section, and at least twenty 1498
per cent of the amounts exceeding one hundred thousand dollars 1499
that are so deposited, shall be used in connection with 1500
community preventive education programs. The manner of use shall 1501
be determined by the sheriff, prosecutor, department, police 1502
force, or office of the constable after receiving and 1503
considering advice on appropriate community preventive education 1504
programs from the county's board of alcohol, drug addiction, and 1505
mental health services, from the county's alcohol and drug 1506
addiction services board, or through appropriate community 1507
dialogue. 1508

The financial records kept under the internal control 1509
policy shall specify the amount deposited during each calendar 1510
year in the portion of that amount that was used pursuant to 1511
this division, and the programs in connection with which the 1512
portion of that amount was so used. 1513

As used in this division, "community preventive education 1514
programs" include, but are not limited to, DARE programs and 1515

other programs designed to educate adults or children with 1516
respect to the dangers associated with using drugs of abuse. 1517

(E) Upon the sale, under this section or section 2981.12 1518
of the Revised Code, of any property that is required by law to 1519
be titled or registered, the state shall issue an appropriate 1520
certificate of title or registration to the purchaser. If the 1521
state is vested with title and elects to retain property that is 1522
required to be titled or registered under law, the state shall 1523
issue an appropriate certificate of title or registration. 1524

(F) Any failure of a law enforcement officer or agency, 1525
prosecutor, court, or the attorney general to comply with this 1526
section in relation to any property seized does not affect the 1527
validity of the seizure and shall not be considered to be the 1528
basis for suppressing any evidence resulting from the seizure, 1529
provided the seizure itself was lawful. 1530

Sec. 2981.14. (A) ~~Nothing~~ Subject to division (B) of this 1531
section, nothing in this chapter precludes the head of a law 1532
enforcement agency that seizes property from seeking forfeiture 1533
under federal law. If the property is forfeitable under this 1534
chapter and federal forfeiture is not sought, the property is 1535
subject only to this chapter. 1536

(B) A law enforcement agency or prosecuting authority 1537
shall not directly or indirectly transfer any property seized by 1538
the agency or authority to any federal law enforcement authority 1539
or other federal agency for purposes of forfeiture under federal 1540
law unless the value of the seized property exceeds fifty 1541
thousand dollars, excluding the potential value of the sale of 1542
contraband. 1543

(C) Any law enforcement agency that receives moneys from a 1544

sale of forfeited property under federal law shall deposit, use, 1545
and account for the amounts, including any interest derived, in 1546
accordance with applicable federal law. If the state highway 1547
patrol or the investigative unit of the department of public 1548
safety receives such federal forfeiture moneys, the appropriate 1549
official shall deposit all interest or other earnings derived 1550
from the investment of the moneys into the highway patrol 1551
treasury contraband fund, the highway patrol justice contraband 1552
fund, the investigative unit treasury contraband fund, or the 1553
investigative unit justice contraband fund, whichever is 1554
appropriate. 1555

~~(C)~~ (D) There is hereby created in the state treasury the 1556
highway patrol treasury contraband fund, the highway patrol 1557
justice contraband fund, the investigative unit treasury 1558
contraband fund, and the investigative unit justice contraband 1559
fund. Each fund shall consist of moneys received under division 1560
~~(B)~~ (C) of this section and shall be used in accordance with any 1561
federal or other requirements associated with moneys received. 1562

Section 2. That existing sections 2923.36, 2981.01, 1563
2981.02, 2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2981.11, 1564
2981.12, 2981.13, and 2981.14 and section 2981.05 of the Revised 1565
Code are hereby repealed. 1566