As Introduced

132nd General Assembly Regular Session 2017-2018

H. B. No. 496

Representatives Kelly, Perales

Cosponsors: Representatives Antonio, Ashford, Boggs, Smith, K., O'Brien, Kent

A BILL

То	amend sections 2903.13 and 2917.41 and to enact	1
	section 306.20 of the Revised Code to increase	2
	the penalty for assault when the victim is an	3
	employee of an Ohio transit system; to authorize	4
	Ohio transit systems to post a sign regarding	5
	abuse or assault of staff; and to increase the	6
	penalty for evading payment of the known fares	7
	of a public transportation system.	8

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

Section 1. That sections 2903.13 and 2917.41 be amended	9
and section 306.20 of the Revised Code be enacted to read as	10
follows:	11
Sec. 306.20. (A) Any Ohio transit system may post the	12
notice described in division (B) of this section in accordance	13
with this division. An Ohio transit system that decides to post	14
the notice shall consider posting it in a conspicuous location	15
in all of the transit system's buses and rail cars.	16
(B) A notice posted pursuant to division (A) of this	17
section shall include, at a minimum, all of the following	18

statements and information:	
"WE WILL NOT TOLERATE	20
any form of threatening or	21
aggressive behavior	22
toward our staff.	23
Assaults against our staff might	24
result in a felony conviction.	25
All staff have the right to carry out	26
their work without fearing for their safety."	27
(C) As used in this section, "Ohio transit system" has the	28
same meaning as in section 2305.33 of the Revised Code.	29
Sec. 2903.13. (A) No person shall knowingly cause or	30
attempt to cause physical harm to another or to another's	31
unborn.	32
(B) No person shall recklessly cause serious physical harm	33
to another or to another's unborn.	34
(C)(1) Whoever violates this section is guilty of assault,	35
and the court shall sentence the offender as provided in this	36
division and divisions (C)(1), (2), (3), (4), (5), (6), (7),	37
(8), (9), and (10), and (11) of this section. Except as	38
otherwise provided in division (C)(2), (3), (4), (5), (6), (7),	39
(8), or (9) <u>, or (10)</u> of this section, assault is a misdemeanor	40
of the first degree.	41
(2) Except as otherwise provided in this division, if the	42
offense is committed by a caretaker against a functionally	43
impaired person under the caretaker's care, assault is a felony	44

of the fourth degree. If the offense is committed by a caretaker 45 against a functionally impaired person under the caretaker's 46 care, if the offender previously has been convicted of or 47 pleaded quilty to a violation of this section or section 2903.11 48 or 2903.16 of the Revised Code, and if in relation to the 49 previous conviction the offender was a caretaker and the victim 50 was a functionally impaired person under the offender's care, 51 assault is a felony of the third degree. 52

(3) If the offense occurs in or on the grounds of a state correctional institution or an institution of the department of youth services, the victim of the offense is an employee of the department of rehabilitation and correction or the department of youth services, and the offense is committed by a person incarcerated in the state correctional institution or by a person institutionalized in the department of youth services institution pursuant to a commitment to the department of youth services, assault is a felony of the third degree.

(4) If the offense is committed in any of the following62circumstances, assault is a felony of the fifth degree:63

(a) The offense occurs in or on the grounds of a local 64 correctional facility, the victim of the offense is an employee 65 of the local correctional facility or a probation department or 66 is on the premises of the facility for business purposes or as a 67 visitor, and the offense is committed by a person who is under 68 custody in the facility subsequent to the person's arrest for 69 any crime or delinquent act, subsequent to the person's being 70 charged with or convicted of any crime, or subsequent to the 71 person's being alleged to be or adjudicated a delinquent child. 72

(b) The offense occurs off the grounds of a state73correctional institution and off the grounds of an institution74

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of the department of youth services, the victim of the offense 75 76 is an employee of the department of rehabilitation and correction, the department of youth services, or a probation 77 department, the offense occurs during the employee's official 78 work hours and while the employee is engaged in official work 79 responsibilities, and the offense is committed by a person 80 incarcerated in a state correctional institution or 81 institutionalized in the department of youth services who 82 temporarily is outside of the institution for any purpose, by a 83 parolee, by an offender under transitional control, under a 84 community control sanction, or on an escorted visit, by a person 85 under post-release control, or by an offender under any other 86 type of supervision by a government agency. 87

(c) The offense occurs off the grounds of a local 88 correctional facility, the victim of the offense is an employee 89 of the local correctional facility or a probation department, 90 the offense occurs during the employee's official work hours and 91 while the employee is engaged in official work responsibilities, 92 and the offense is committed by a person who is under custody in 93 the facility subsequent to the person's arrest for any crime or 94 delinquent act, subsequent to the person being charged with or 95 convicted of any crime, or subsequent to the person being 96 alleged to be or adjudicated a delinguent child and who 97 temporarily is outside of the facility for any purpose or by a 98 parolee, by an offender under transitional control, under a 99 community control sanction, or on an escorted visit, by a person 100 under post-release control, or by an offender under any other 101 type of supervision by a government agency. 102

(d) The victim of the offense is a school teacher or
administrator or a school bus operator, and the offense occurs
in a school, on school premises, in a school building, on a

school bus, or while the victim is outside of school premises or 106 a school bus and is engaged in duties or official 107 responsibilities associated with the victim's employment or 108 position as a school teacher or administrator or a school bus 109 operator, including, but not limited to, driving, accompanying, 110 or chaperoning students at or on class or field trips, athletic 111 events, or other school extracurricular activities or functions 112 outside of school premises. 113

(5) If the victim of the offense is a peace officer or an
investigator of the bureau of criminal identification and
investigation, a firefighter, or a person performing emergency
medical service, while in the performance of their official
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duties, assault is a felony of the fourth degree.

(6) If the victim of the offense is a peace officer or an 119 investigator of the bureau of criminal identification and 120 investigation and if the victim suffered serious physical harm 121 as a result of the commission of the offense, assault is a 122 felony of the fourth degree, and the court, pursuant to division 123 (F) of section 2929.13 of the Revised Code, shall impose as a 124 mandatory prison term one of the prison terms prescribed for a 125 felony of the fourth degree that is at least twelve months in 126 duration. 127

(7) If the victim of the offense is an officer or employee 128 of a public children services agency or a private child placing 129 agency and the offense relates to the officer's or employee's 130 performance or anticipated performance of official 131 responsibilities or duties, assault is either a felony of the 132 fifth degree or, if the offender previously has been convicted 133 of or pleaded guilty to an offense of violence, the victim of 134 that prior offense was an officer or employee of a public 135

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children services agency or private child placing agency, and136that prior offense related to the officer's or employee's137performance or anticipated performance of official138responsibilities or duties, a felony of the fourth degree.139

(8) If the victim of the offense is a health care 140 professional of a hospital, a health care worker of a hospital, 141 or a security officer of a hospital whom the offender knows or 142 has reasonable cause to know is a health care professional of a 143 hospital, a health care worker of a hospital, or a security 144 145 officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers 146 de-escalation or crisis intervention training for such 147 professionals, workers, or officers, assault is one of the 148 following: 149

(a) Except as otherwise provided in division (C)(8)(b) of 150 this section, assault committed in the specified circumstances 151 is a misdemeanor of the first degree. Notwithstanding the fine 152 specified in division (A) (2) $\frac{(b)}{(a)}$ of section 2929.28 of the 153 Revised Code for a misdemeanor of the first degree, in 154 sentencing the offender under this division and if the court 155 decides to impose a fine, the court may impose upon the offender 156 a fine of not more than five thousand dollars. 157

(b) If the offender previously has been convicted of or
pleaded guilty to one or more assault or homicide offenses
committed against hospital personnel, assault committed in the
specified circumstances is a felony of the fifth degree.

(9) If the victim of the offense is a judge, magistrate,
prosecutor, or court official or employee whom the offender
knows or has reasonable cause to know is a judge, magistrate,
prosecutor, or court official or employee, and if the victim is
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engaged in the performance of the victim's duties, assault is 166 one of the following: 167

(a) Except as otherwise provided in division (C)(8)(b) of 168 this section, assault committed in the specified circumstances 169 is a misdemeanor of the first degree. In sentencing the offender 170 under this division, if the court decides to impose a fine, 171 notwithstanding the fine specified in division (A) (2) $\frac{(b)}{(a)}$ of 172 section 2929.28 of the Revised Code for a misdemeanor of the 173 first degree, the court may impose upon the offender a fine of 174 not more than five thousand dollars. 175

(b) If the offender previously has been convicted of or
pleaded guilty to one or more assault or homicide offenses
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committed against justice system personnel, assault committed in
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the specified circumstances is a felony of the fifth degree.

(10) If the victim of the offense is an operator of an 180 Ohio transit system bus or Ohio transit system rail car, a 181 maintenance worker of an Ohio transit system, or a contracted 182 employee providing any of those services to an Ohio transit 183 system, if the offender knows or has reasonable cause to know 184 that the victim is an operator of an Ohio transit system bus or_ 185 Ohio transit system rail car, a maintenance worker of an Ohio 186 transit system, or a contracted employee providing any of these 187 services to an Ohio transit system, and if the victim is engaged 188 in the performance of the victim's duties, assault is one of the 189 following: 190

(a) Except as otherwise provided in division (C) (10) (b) of191this section, assault committed in the specified circumstances192is a felony of the fifth degree. Notwithstanding the fine193specified in division (A) (3) of section 2929.18 of the Revised194Code for a felony of the fifth degree, if the court decides to195

impose a fine under this division, the court may impose upon the	196	
offender a fine of not more than five thousand dollars.		
Additionally, the court may prohibit the offender from riding		
any Ohio transit system bus or Ohio transit system rail car for		
six months.		
(b) If the offender previously has been convicted of or	201	
pleaded guilty to one or more assault or homicide offenses		
committed against an operator of an Ohio transit system bus or	203	
<u>Ohio transit system rail car, a maintenance worker of an Ohio</u>	204	
transit system, or a contracted employee providing any of these	205	
services to an Ohio transit system, assault committed in the	206	
specified circumstances is a felony of the fourth degree.	207	
Additionally, the court may prohibit the offender from riding	208	
any Ohio transit system bus or Ohio transit system rail car for	209	
the offender's lifetime.		
<u>(11) If an offender who is convicted of or pleads guilty</u>	211	
(11) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or	211 212	
to assault when it is a misdemeanor also is convicted of or	212	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section	212 213	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the	212 213 214	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the	212 213 214 215	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory	212 213 214 215 216	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the	212 213 214 215 216 217	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code.	212 213 214 215 216 217 218	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code. If an offender who is convicted of or pleads guilty to	212 213 214 215 216 217 218 219	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code. If an offender who is convicted of or pleads guilty to assault when it is a felony also is convicted of or pleads	212 213 214 215 216 217 218 219 220	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code. If an offender who is convicted of or pleads guilty to assault when it is a felony also is convicted of or pleads guilty to a specification as described in section 2941.1423 of	212 213 214 215 216 217 218 219 220 221	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code. If an offender who is convicted of or pleads guilty to assault when it is a felony also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in	212 213 214 215 216 217 218 219 220 221 222	
to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of section 2929.24 of the Revised Code. If an offender who is convicted of or pleads guilty to assault when it is a felony also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, except as	212 213 214 215 216 217 218 219 220 221 222 223	

following:

227 Code. (D) As used in this section: 228 (1) "Peace officer" has the same meaning as in section 229 2935.01 of the Revised Code. 230 (2) "Firefighter" has the same meaning as in section 231 3937.41 of the Revised Code. 232 (3) "Emergency medical service" has the same meaning as in 233 section 4765.01 of the Revised Code. 234 (4) "Local correctional facility" means a county, 235 multicounty, municipal, municipal-county, or multicounty-236 municipal jail or workhouse, a minimum security jail established 237 under section 341.23 or 753.21 of the Revised Code, or another 238 county, multicounty, municipal, municipal-county, or 239 multicounty-municipal facility used for the custody of persons 240 arrested for any crime or delinquent act, persons charged with 241 or convicted of any crime, or persons alleged to be or 242 adjudicated a delinquent child. 243 (5) "Employee of a local correctional facility" means a 244 person who is an employee of the political subdivision or of one 245 or more of the affiliated political subdivisions that operates 246 the local correctional facility and who operates or assists in 247 the operation of the facility. 248 (6) "School teacher or administrator" means either of the 249

provided in division (B)(8) of section 2929.14 of the Revised

(a) A person who is employed in the public schools of the
state under a contract described in section 3311.77 or 3319.08
of the Revised Code in a position in which the person is
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required to have a certificate issued pursuant to sections 254 3319.22 to 3319.311 of the Revised Code. 255 (b) A person who is employed by a nonpublic school for 256 which the state board of education prescribes minimum standards 257 under section 3301.07 of the Revised Code and who is 258 certificated in accordance with section 3301.071 of the Revised 259 Code. 260 (7) "Community control sanction" has the same meaning as 261 in section 2929.01 of the Revised Code. 262 (8) "Escorted visit" means an escorted visit granted under 263 section 2967.27 of the Revised Code. 264 (9) "Post-release control" and "transitional control" have 265 the same meanings as in section 2967.01 of the Revised Code. 266 (10) "Investigator of the bureau of criminal 267 identification and investigation" has the same meaning as in 268 section 2903.11 of the Revised Code. 269 (11) "Health care professional" and "health care worker" 270 have the same meanings as in section 2305.234 of the Revised 271 Code. 272 (12) "Assault or homicide offense committed against 273 hospital personnel" means a violation of this section or of 274 section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 275 2903.12, or 2903.14 of the Revised Code committed in 276 circumstances in which all of the following apply: 277 (a) The victim of the offense was a health care 278 professional of a hospital, a health care worker of a hospital, 279 or a security officer of a hospital. 280

(b) The offender knew or had reasonable cause to know that 281

the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital.

(c) The victim was engaged in the performance of the victim's duties.

(d) The hospital offered de-escalation or crisis
intervention training for such professionals, workers, or
officers.

(13) "De-escalation or crisis intervention training" means 290 de-escalation or crisis intervention training for health care 291 professionals of a hospital, health care workers of a hospital, 292 and security officers of a hospital to facilitate interaction 293 with patients, members of a patient's family, and visitors, 294 including those with mental impairments. 295

(14) "Assault or homicide offense committed against 296 justice system personnel" means a violation of this section or 297 of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 298 2903.11, 2903.12, or 2903.14 of the Revised Code committed in 299 circumstances in which the victim of the offense was a judge, 300 301 magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, 302 magistrate, prosecutor, or court official or employee, and the 303 victim was engaged in the performance of the victim's duties. 304

(15) "Court official or employee" means any official or
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employee of a court created under the constitution or statutes
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of this state or of a United States court located in this state.
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(16) "Judge" means a judge of a court created under the
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constitution or statutes of this state or of a United States
court located in this state.
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(17) "Magistrate" means an individual who is appointed by
a court of record of this state and who has the powers and may
perform the functions specified in Civil Rule 53, Criminal Rule
19, or Juvenile Rule 40, or an individual who is appointed by a
United States court located in this state who has similar powers
and functions.

(18) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(19) (a) "Hospital" means, subject to division (D) (19) (b) 319 of this section, an institution classified as a hospital under 320 section 3701.01 of the Revised Code in which are provided to 321 patients diagnostic, medical, surgical, obstetrical, 322 psychiatric, or rehabilitation care or a hospital operated by a 323 health maintenance organization. 324

(b) "Hospital" does not include any of the following:

(i) A facility licensed under Chapter 3721. of the Revised
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Code, a health care facility operated by the department of
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mental health or the department of developmental disabilities, a
health maintenance organization that does not operate a
hospital, or the office of any private, licensed health care
professional, whether organized for individual or group
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practice;

(ii) An institution for the sick that is operated
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exclusively for patients who use spiritual means for healing and
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for whom the acceptance of medical care is inconsistent with
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their religious beliefs, accredited by a national accrediting
organization, exempt from federal income taxation under section
501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26
U.S.C. 1, as amended, and providing twenty-four-hour nursing
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care pursuant to the exemption in division (E) of section	340
4723.32 of the Revised Code from the licensing requirements of	341
Chapter 4723. of the Revised Code.	342
(20) "Health maintenance organization" has the same	343
meaning as in section 3727.01 of the Revised Code.	344
meaning as in section 3727.01 of the Revised Code.	544
(21) "Ohio transit system bus" means a motor vehicle of an	345
<u>Ohio transit system that is designed for carrying more than nine</u>	346
passengers and used for the transportation of persons but does	347
not mean any school bus.	348
<u>(22) "Ohio transit system rail car" means a street rail</u>	349
car, tramline car, subway car, monorail car, or rapid transit	350
car within a ground transportation system having as its primary	351
purpose the regularly scheduled mass movement of passengers	352
between locations within the territorial boundaries of an Ohio	353
<u>transit system.</u>	354
(23) "Ohio transit system" has the same meaning as in	355
section 2305.33 of the Revised Code.	356
(24) "Motor vehicle" has the same meaning as in section	357
4511.01 of the Revised Code.	
(25) "Assault or homicide offense committed against an	359
operator of an Ohio transit system bus or Ohio transit system	360
rail car, a maintenance worker of an Ohio transit system, or a	361
contracted employee providing any of these services to an Ohio	362
transit system" means a violation of this section or of section	363
<u>2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12,</u>	364
or 2903.14 of the Revised Code committed in circumstances in	
which all of the following apply:	
(a) The victim of the offense was an operator of an Ohio	367
<u>transit system bus or Ohio transit system rail car, a</u>	368

maintenance worker of an Ohio transit system, or a contracted 369 employee providing any of these services to an Ohio transit 370 system. 371 (b) The offender knew or had reasonable cause to know that 372 the victim was an operator of an Ohio transit system bus or Ohio 373 transit system rail car, a maintenance worker of an Ohio transit 374 system, or a contracted employee providing any of these services 375 to an Ohio transit system. 376 (c) The victim was engaged in the performance of the 377 victim's duties. 378 Sec. 2917.41. (A) No person shall evade the payment of the 379 known fares of a public transportation system. 380 (B) No person shall alter any transfer, pass, ticket, or 381 token of a public transportation system with the purpose of 382 evading the payment of fares or of defrauding the system. 383 (C) No person shall do any of the following while in any 384 facility or on any vehicle of a public transportation system: 385 (1) Play sound equipment without the proper use of a 386 387 private earphone; (2) Smoke, eat, or drink in any area where the activity is 388 clearly marked as being prohibited; 389 (3) Expectorate upon a person, facility, or vehicle. 390 (D) No person shall write, deface, draw, or otherwise mark 391 on any facility or vehicle of a public transportation system. 392 (E) No person shall fail to comply with a lawful order of 393 a public transportation system police officer, and no person 394 shall resist, obstruct, or abuse a public transportation police 395

officer in the performance of the officer's duties. 396 (F) Whoever violates this section is quilty of misconduct 397 involving a public transportation system. 398 (1) Violation <u>A violation</u> of division (A), (B), or (E) of 399 this section is a misdemeanor of the fourth second degree. 400 (2) Violation A violation of division (B) or (E) of this 401 section is a misdemeanor of the fourth degree. 402 (3) A violation of division (C) of this section is a minor 403 misdemeanor on a first offense. If a person previously has been 404 convicted of or pleaded guilty to a violation of any division of 405 this section or of a municipal ordinance that is substantially 406 similar to any division of this section, violation of division 407 (C) of this section is a misdemeanor of the fourth degree. 408 409 (3) Violation (4) A violation of division (D) of this section is a misdemeanor of the third degree. 410 (G) Notwithstanding any other provision of law, seventy-411 five per cent of each fine paid to satisfy a sentence imposed 412 for a violation of this section shall be deposited into the 413 treasury of the county in which the violation occurred and 414 twenty-five per cent shall be deposited with the county transit 415 416 board, regional transit authority, or regional transit commission that operates the public transportation system 417 involved in the violation, unless the board of county 418 commissioners operates the public transportation system, in 419 which case one hundred per cent of each fine shall be deposited 420 into the treasury of the county. 421

(H) As used in this section, "public transportation 422
system" means a county transit system operated in accordance 423
with sections 306.01 to 306.13 of the Revised Code, a regional 424

transit authority operated in accordance with sections 306.30 to	
306.71 of the Revised Code, or a regional transit commission	426
operated in accordance with sections 306.80 to 306.90 of the	
Revised Code.	
Section 2. That existing sections 2903.13 and 2917.41 of	429
the Revised Code are hereby repealed.	430