

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 365**

**Senator Eklund**

**Cosponsors: Senators Coley, Tavares, Seitz, Thomas, Patton, Hite**

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**A BILL**

To amend sections 2913.04 and 2923.129 and to enact 1  
section 5503.101 of the Revised Code to allow 2  
disclosure of information from the law 3  
enforcement automated data system (LEADS) to a 4  
defendant in a traffic or criminal case. 5

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

**Section 1.** That sections 2913.04 and 2923.129 be amended 6  
and section 5503.101 of the Revised Code be enacted to read as 7  
follows: 8

**Sec. 2913.04.** (A) No person shall knowingly use or operate 9  
the property of another without the consent of the owner or 10  
person authorized to give consent. 11

(B) No person, in any manner and by any means, including, 12  
but not limited to, computer hacking, shall knowingly gain 13  
access to, attempt to gain access to, or cause access to be 14  
gained to any computer, computer system, computer network, cable 15  
service, cable system, telecommunications device, 16  
telecommunications service, or information service without the 17  
consent of, or beyond the scope of the express or implied 18

consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.

(C) ~~No~~ Except as permitted under section 5503.101 of the Revised Code, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to section 5503.10 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.

(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to division (C) (1) of section 109.57 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the bureau of criminal identification and investigation.

(E) The affirmative defenses contained in division (C) of section 2913.03 of the Revised Code are affirmative defenses to a charge under this section.

(F) (1) Whoever violates division (A) of this section is guilty of unauthorized use of property.

(2) Except as otherwise provided in division (F) (3) or (4) of this section, unauthorized use of property is a misdemeanor of the fourth degree.

(3) Except as otherwise provided in division (F) (4) of

this section, if unauthorized use of property is committed for 48  
the purpose of devising or executing a scheme to defraud or to 49  
obtain property or services, unauthorized use of property is 50  
whichever of the following is applicable: 51

(a) Except as otherwise provided in division (F) (3) (b), 52  
(c), or (d) of this section, a misdemeanor of the first degree. 53

(b) If the value of the property or services or the loss 54  
to the victim is one thousand dollars or more and is less than 55  
seven thousand five hundred dollars, a felony of the fifth 56  
degree. 57

(c) If the value of the property or services or the loss 58  
to the victim is seven thousand five hundred dollars or more and 59  
is less than one hundred fifty thousand dollars, a felony of the 60  
fourth degree. 61

(d) If the value of the property or services or the loss 62  
to the victim is one hundred fifty thousand dollars or more, a 63  
felony of the third degree. 64

(4) If the victim of the offense is an elderly person or 65  
disabled adult, unauthorized use of property is whichever of the 66  
following is applicable: 67

(a) Except as otherwise provided in division (F) (4) (b), 68  
(c), or (d) of this section, a felony of the fifth degree; 69

(b) If the value of the property or services or loss to 70  
the victim is one thousand dollars or more and is less than 71  
seven thousand five hundred dollars, a felony of the fourth 72  
degree; 73

(c) If the value of the property or services or loss to 74  
the victim is seven thousand five hundred dollars or more and is 75

less than thirty-seven thousand five hundred dollars, a felony 76  
of the third degree; 77

(d) If the value of the property or services or loss to 78  
the victim is thirty-seven thousand five hundred dollars or 79  
more, a felony of the second degree. 80

(G) (1) Whoever violates division (B) of this section is 81  
guilty of unauthorized use of computer, cable, or 82  
telecommunication property, and shall be punished as provided in 83  
division (G) (2), (3), or (4) of this section. 84

(2) Except as otherwise provided in division (G) (3) or (4) 85  
of this section, unauthorized use of computer, cable, or 86  
telecommunication property is a felony of the fifth degree. 87

(3) Except as otherwise provided in division (G) (4) of 88  
this section, if unauthorized use of computer, cable, or 89  
telecommunication property is committed for the purpose of 90  
devising or executing a scheme to defraud or to obtain property 91  
or services, for obtaining money, property, or services by false 92  
or fraudulent pretenses, or for committing any other criminal 93  
offense, unauthorized use of computer, cable, or 94  
telecommunication property is whichever of the following is 95  
applicable: 96

(a) Except as otherwise provided in division (G) (3) (b) of 97  
this section, if the value of the property or services involved 98  
or the loss to the victim is seven thousand five hundred dollars 99  
or more and less than one hundred fifty thousand dollars, a 100  
felony of the fourth degree; 101

(b) If the value of the property or services involved or 102  
the loss to the victim is one hundred fifty thousand dollars or 103  
more, a felony of the third degree. 104

(4) If the victim of the offense is an elderly person or disabled adult, unauthorized use of computer, cable, or telecommunication property is whichever of the following is applicable:

(a) Except as otherwise provided in division (G) (4) (b), (c), or (d) of this section, a felony of the fifth degree;

(b) If the value of the property or services or loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fourth degree;

(c) If the value of the property or services or loss to the victim is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a felony of the third degree;

(d) If the value of the property or services or loss to the victim is thirty-seven thousand five hundred dollars or more, a felony of the second degree.

(H) Whoever violates division (C) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony of the fifth degree.

(I) Whoever violates division (D) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony of the fifth degree.

(J) As used in this section:

(1) "Cable operator" means any person or group of persons that does either of the following:

(a) Provides cable service over a cable system and directly or through one or more affiliates owns a significant

interest in that cable system;	133
(b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.	134 135
(2) "Cable service" means any of the following:	136
(a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;	137 138 139
(b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (J) (2) (a) of this section;	140 141 142 143
(c) Any cable television service.	144
(3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following:	145 146 147 148 149 150
(a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;	151 152
(b) Any facility that serves subscribers without using any public right-of-way;	153 154
(c) Any facility of a common carrier that, under 47 U.S.C.A. 522(7) (c), is excluded from the term "cable system" as defined in 47 U.S.C.A. 522(7);	155 156 157
(d) Any open video system that complies with 47 U.S.C.A. 573;	158 159

(e) Any facility of any electric utility used solely for 160  
operating its electric utility system. 161

**Sec. 2923.129.** (A) (1) If a sheriff, the superintendent of 162  
the bureau of criminal identification and investigation, the 163  
employees of the bureau, the Ohio peace officer training 164  
commission, or the employees of the commission make a good faith 165  
effort in performing the duties imposed upon the sheriff, the 166  
superintendent, the bureau's employees, the commission, or the 167  
commission's employees by sections 109.731, 311.41, and 2923.124 168  
to 2923.1213 of the Revised Code, in addition to the personal 169  
immunity provided by section 9.86 of the Revised Code or 170  
division (A) (6) of section 2744.03 of the Revised Code and the 171  
governmental immunity of sections 2744.02 and 2744.03 of the 172  
Revised Code and in addition to any other immunity possessed by 173  
the bureau, the commission, and their employees, the sheriff, 174  
the sheriff's office, the county in which the sheriff has 175  
jurisdiction, the bureau, the superintendent of the bureau, the 176  
bureau's employees, the commission, and the commission's 177  
employees are immune from liability in a civil action for 178  
injury, death, or loss to person or property that allegedly was 179  
caused by or related to any of the following: 180

(a) The issuance, renewal, suspension, or revocation of a 181  
concealed handgun license; 182

(b) The failure to issue, renew, suspend, or revoke a 183  
concealed handgun license; 184

(c) Any action or misconduct with a handgun committed by a 185  
licensee. 186

(2) Any action of a sheriff relating to the issuance, 187  
renewal, suspension, or revocation of a concealed handgun 188

license shall be considered to be a governmental function for 189  
purposes of Chapter 2744. of the Revised Code. 190

(3) An entity that or instructor who provides a competency 191  
certification of a type described in division (B)(3) of section 192  
2923.125 of the Revised Code is immune from civil liability that 193  
might otherwise be incurred or imposed for any death or any 194  
injury or loss to person or property that is caused by or 195  
related to a person to whom the entity or instructor has issued 196  
the competency certificate if all of the following apply: 197

(a) The alleged liability of the entity or instructor 198  
relates to the training provided in the course, class, or 199  
program covered by the competency certificate. 200

(b) The entity or instructor makes a good faith effort in 201  
determining whether the person has satisfactorily completed the 202  
course, class, or program and makes a good faith effort in 203  
assessing the person in the competency examination conducted 204  
pursuant to division (G)(2) of section 2923.125 of the Revised 205  
Code. 206

(c) The entity or instructor did not issue the competency 207  
certificate with malicious purpose, in bad faith, or in a wanton 208  
or reckless manner. 209

(4) An entity that or instructor who, prior to March 27, 210  
2013, provides a renewed competency certification of a type 211  
described in division (G)(4) of section 2923.125 of the Revised 212  
Code as it existed prior to March 27, 2013, is immune from civil 213  
liability that might otherwise be incurred or imposed for any 214  
death or any injury or loss to person or property that is caused 215  
by or related to a person to whom the entity or instructor has 216  
issued the renewed competency certificate if all of the 217

following apply:	218
(a) The entity or instructor makes a good faith effort in	219
assessing the person in the physical demonstrations or the	220
competency examination conducted pursuant to division (G) (4) of	221
section 2923.125 of the Revised Code as it existed prior to	222
March 27, 2013.	223
(b) The entity or instructor did not issue the renewed	224
competency certificate with malicious purpose, in bad faith, or	225
in a wanton or reckless manner.	226
(5) A law enforcement agency that employs a peace officer	227
is immune from liability in a civil action to recover damages	228
for injury, death, or loss to person or property allegedly	229
caused by any act of that peace officer if the act occurred	230
while the peace officer carried a concealed handgun and was off	231
duty and if the act allegedly involved the peace officer's use	232
of the concealed handgun. Sections 9.86 and 9.87, and Chapter	233
2744., of the Revised Code apply to any civil action involving a	234
peace officer's use of a concealed handgun in the performance of	235
the peace officer's official duties while the peace officer is	236
off duty.	237
(B) Notwithstanding section 149.43 of the Revised Code,	238
the records that a sheriff keeps relative to the issuance,	239
renewal, suspension, or revocation of a concealed handgun	240
license, including, but not limited to, completed applications	241
for the issuance or renewal of a license, completed affidavits	242
submitted regarding an application for a license on a temporary	243
emergency basis, reports of criminal records checks and	244
incompetency records checks under section 311.41 of the Revised	245
Code, and applicants' social security numbers and fingerprints	246
that are obtained under division (A) of section 311.41 of the	247

Revised Code, are confidential and are not public records. No 248  
person shall release or otherwise disseminate records that are 249  
confidential under this division unless required to do so 250  
pursuant to a court order. 251

(C) Each sheriff shall report to the Ohio peace officer 252  
training commission the number of concealed handgun licenses 253  
that the sheriff issued, renewed, suspended, revoked, or denied 254  
under section 2923.125 of the Revised Code during the previous 255  
quarter of the calendar year, the number of applications for 256  
those licenses for which processing was suspended in accordance 257  
with division (D) (3) of section 2923.125 of the Revised Code 258  
during the previous quarter of the calendar year, and the number 259  
of concealed handgun licenses on a temporary emergency basis 260  
that the sheriff issued, suspended, revoked, or denied under 261  
section 2923.1213 of the Revised Code during the previous 262  
quarter of the calendar year. The sheriff shall not include in 263  
the report the name or any other identifying information of an 264  
applicant or licensee. The sheriff shall report that information 265  
in a manner that permits the commission to maintain the 266  
statistics described in division (C) of section 109.731 of the 267  
Revised Code and to timely prepare the statistical report 268  
described in that division. The information that is received by 269  
the commission under this division is a public record kept by 270  
the commission for the purposes of section 149.43 of the Revised 271  
Code. 272

(D) Law enforcement agencies may use the information a 273  
sheriff makes available through the use of the law enforcement 274  
automated data system pursuant to division (H) of section 275  
2923.125 or division (B) (2) or (D) of section 2923.1213 of the 276  
Revised Code for law enforcement purposes only. The information 277  
is confidential and is not a public record. ~~A-Except as provided~~ 278

in section 5503.101 of the Revised Code, a person who releases 279  
or otherwise disseminates this information obtained through the 280  
law enforcement automated data system in a manner not described 281  
in this division is guilty of a violation of section 2913.04 of 282  
the Revised Code. 283

(E) Whoever violates division (B) of this section is 284  
guilty of illegal release of confidential concealed handgun 285  
license records, a felony of the fifth degree. In addition to 286  
any penalties imposed under Chapter 2929. of the Revised Code 287  
for a violation of division (B) of this section or a violation 288  
of section 2913.04 of the Revised Code described in division (D) 289  
of this section, if the offender is a sheriff, an employee of a 290  
sheriff, or any other public officer or employee, and if the 291  
violation was willful and deliberate, the offender shall be 292  
subject to a civil fine of one thousand dollars. Any person who 293  
is harmed by a violation of division (B) or (C) of this section 294  
or a violation of section 2913.04 of the Revised Code described 295  
in division (D) of this section has a private cause of action 296  
against the offender for any injury, death, or loss to person or 297  
property that is a proximate result of the violation and may 298  
recover court costs and attorney's fees related to the action. 299

Sec. 5503.101. (A) Notwithstanding any section of the 300  
Revised Code or rule of procedure to the contrary, a defendant's 301  
traffic or criminal record contained in the law enforcement 302  
automated data system, also known as LEADS, may be disclosed to 303  
the defendant and defendant's counsel when formally requested 304  
pursuant to the rules of discovery in a traffic or criminal 305  
case. 306

(B) Copies of information obtained from the law 307  
enforcement automated data system may be provided to the 308

defendant and defendant's counsel when formally requested 309  
pursuant to the rules of discovery in a traffic or criminal 310  
case. 311

(C) Notwithstanding section 2913.04 or 2923.129 of the 312  
Revised Code, no prosecutor or person assisting a prosecutor in 313  
providing discovery shall be held civilly or criminally liable 314  
for disclosing information from the law enforcement automated 315  
data system in the manner authorized by this section. 316

(D) The superintendent of the state highway patrol or any 317  
person employed by the superintendent to carry out the purposes 318  
of section 5503.10 of the Revised Code shall not sanction or 319  
deny access to the law enforcement automated data system to any 320  
person or entity because that person or entity provided 321  
discovery information in the manner authorized by this section. 322

(E) The defendant's counsel may disclose, copy, and 323  
provide to the defendant any information about the defendant's 324  
own traffic or criminal record obtained by discovery from the 325  
law enforcement automated data system. 326

(F) The fact that information sought in discovery is 327  
contained in the law enforcement automated data system shall not 328  
be cited or accepted as a reason for denying discovery to the 329  
defendant of the defendant's own traffic or criminal record. 330

**Section 2.** That existing sections 2913.04 and 2923.129 of 331  
the Revised Code are hereby repealed. 332