

**As Reported by the House Community and Family Advancement
Committee**

132nd General Assembly

**Regular Session
2017-2018**

Sub. H. B. No. 497

Representatives Rogers, Manning

A BILL

To amend sections 2907.01, 2907.31, 2981.02, and 1
2981.04 and to enact sections 9.74, 2307.66, 2
2917.211, and 3345.49 of the Revised Code to 3
prohibit the nonconsensual dissemination of 4
private sexual images, to require that certain 5
property involved in the offense be criminally 6
forfeited, and to create certain legal rights 7
and protections of a victim of the offense. 8

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

Section 1. That sections 2907.01, 2907.31, 2981.02, and 9
2981.04 be amended and sections 9.74, 2307.66, 2917.211, and 10
3345.49 of the Revised Code be enacted to read as follows: 11

Sec. 9.74. (A) As used in this section: 12

(1) "License" means a license, certificate, registration, 13
permit, card, or other authority issued or conferred by a 14
licensing authority of which the licensee has or claims the 15
privilege to engage in the profession, occupation, or activity, 16
or to have control of and operate certain specific equipment, 17
machinery, or premises, over which the licensing authority has 18

jurisdiction. 19

(2) "Licensing authority" means a public office that 20
issues a license to a person or entity. 21

(3) "Political subdivision" means a county, township, 22
municipal corporation, or any other body corporate and politic 23
that is responsible for government activities in a geographic 24
area smaller than that of the state. 25

(4) "Public office" means any state agency, public 26
institution, political subdivision, other organized body, 27
office, agency, institution, or entity established by the laws 28
of this state for the exercise of any function of government. 29
"Public office" does not include the nonprofit corporation 30
formed under section 187.01 of the Revised Code. 31

(5) "Victim" has the same meaning as in section 2930.01 of 32
the Revised Code. 33

(B) No licensing authority shall knowingly take any of the 34
following actions against a person who is applying for or holds 35
a license solely on the basis that the person is a victim of a 36
violation of section 2917.211 of the Revised Code: 37

(1) Refuse to issue a license to an applicant; 38

(2) Limit, suspend, or revoke a license; 39

(3) Refuse to renew a license. 40

Sec. 2307.66. (A) A victim of a violation of section 41
2917.211 of the Revised Code has and may commence a civil cause 42
of action against the offender for any of the following, in 43
addition to reasonable attorney's fees and the costs of bringing 44
the action: 45

(1) An injunction or a temporary restraining order 46
prohibiting further dissemination of the image that is the 47
subject of the violation; 48

(2) Compensatory and punitive damages for harm resulting 49
from the violation. 50

(B) The victim shall be presumed to have suffered harm as 51
a result of the nonconsensual dissemination of private sexual 52
images. 53

(C) The cause of action created by this section is in 54
addition to any other cause of action available under statutory 55
or common law. 56

(D) As used in this section, "victim" has the same meaning 57
as in section 2930.01 of the Revised Code. 58

Sec. 2907.01. As used in sections 2907.01 to 2907.38 and 59
2917.211 of the Revised Code: 60

(A) "Sexual conduct" means vaginal intercourse between a 61
male and female; anal intercourse, fellatio, and cunnilingus 62
between persons regardless of sex; and, without privilege to do 63
so, the insertion, however slight, of any part of the body or 64
any instrument, apparatus, or other object into the vaginal or 65
anal opening of another. Penetration, however slight, is 66
sufficient to complete vaginal or anal intercourse. 67

(B) "Sexual contact" means any touching of an erogenous 68
zone of another, including without limitation the thigh, 69
genitals, buttock, pubic region, or, if the person is a female, 70
a breast, for the purpose of sexually arousing or gratifying 71
either person. 72

(C) "Sexual activity" means sexual conduct or sexual 73

contact, or both. 74

(D) "Prostitute" means a male or female who promiscuously 75
engages in sexual activity for hire, regardless of whether the 76
hire is paid to the prostitute or to another. 77

(E) "Harmful to juveniles" means that quality of any 78
material or performance describing or representing nudity, 79
sexual conduct, sexual excitement, or sado-masochistic abuse in 80
any form to which all of the following apply: 81

(1) The material or performance, when considered as a 82
whole, appeals to the prurient interest of juveniles in sex. 83

(2) The material or performance is patently offensive to 84
prevailing standards in the adult community as a whole with 85
respect to what is suitable for juveniles. 86

(3) The material or performance, when considered as a 87
whole, lacks serious literary, artistic, political, and 88
scientific value for juveniles. 89

(F) When considered as a whole, and judged with reference 90
to ordinary adults or, if it is designed for sexual deviates or 91
other specially susceptible group, judged with reference to that 92
group, any material or performance is "obscene" if any of the 93
following apply: 94

(1) Its dominant appeal is to prurient interest; 95

(2) Its dominant tendency is to arouse lust by displaying 96
or depicting sexual activity, masturbation, sexual excitement, 97
or nudity in a way that tends to represent human beings as mere 98
objects of sexual appetite; 99

(3) Its dominant tendency is to arouse lust by displaying 100
or depicting bestiality or extreme or bizarre violence, cruelty, 101

or brutality;	102
(4) Its dominant tendency is to appeal to scatological	103
interest by displaying or depicting human bodily functions of	104
elimination in a way that inspires disgust or revulsion in	105
persons with ordinary sensibilities, without serving any genuine	106
scientific, educational, sociological, moral, or artistic	107
purpose;	108
(5) It contains a series of displays or descriptions of	109
sexual activity, masturbation, sexual excitement, nudity,	110
bestiality, extreme or bizarre violence, cruelty, or brutality,	111
or human bodily functions of elimination, the cumulative effect	112
of which is a dominant tendency to appeal to prurient or	113
scatological interest, when the appeal to such an interest is	114
primarily for its own sake or for commercial exploitation,	115
rather than primarily for a genuine scientific, educational,	116
sociological, moral, or artistic purpose.	117
(G) "Sexual excitement" means the condition of human male	118
or female genitals when in a state of sexual stimulation or	119
arousal.	120
(H) "Nudity" means the showing, representation, or	121
depiction of human male or female genitals, pubic area, or	122
buttocks with less than a full, opaque covering, or of a female	123
breast with less than a full, opaque covering of any portion	124
thereof below the top of the nipple, or of covered male genitals	125
in a discernibly turgid state.	126
(I) "Juvenile" means an unmarried person under the age of	127
eighteen.	128
(J) "Material" means any book, magazine, newspaper,	129
pamphlet, poster, print, picture, figure, image, description,	130

motion picture film, phonographic record, or tape, or other 131
tangible thing capable of arousing interest through sight, 132
sound, or touch and includes an image or text appearing on a 133
computer monitor, television screen, liquid crystal display, or 134
similar display device or an image or text recorded on a 135
computer hard disk, computer floppy disk, compact disk, magnetic 136
tape, or similar data storage device. 137

(K) "Performance" means any motion picture, preview, 138
trailer, play, show, skit, dance, or other exhibition performed 139
before an audience. 140

(L) "Spouse" means a person married to an offender at the 141
time of an alleged offense, except that such person shall not be 142
considered the spouse when any of the following apply: 143

(1) When the parties have entered into a written 144
separation agreement authorized by section 3103.06 of the 145
Revised Code; 146

(2) During the pendency of an action between the parties 147
for annulment, divorce, dissolution of marriage, or legal 148
separation; 149

(3) In the case of an action for legal separation, after 150
the effective date of the judgment for legal separation. 151

(M) "Minor" means a person under the age of eighteen. 152

(N) "Mental health client or patient" has the same meaning 153
as in section 2305.51 of the Revised Code. 154

(O) "Mental health professional" has the same meaning as 155
in section 2305.115 of the Revised Code. 156

(P) "Sado-masochistic abuse" means flagellation or torture 157
by or upon a person or the condition of being fettered, bound, 158

or otherwise physically restrained. 159

Sec. 2907.31. (A) No person, with knowledge of its 160
character or content, shall recklessly do any of the following: 161

(1) Directly sell, deliver, furnish, disseminate, provide, 162
exhibit, rent, or present to a juvenile, a group of juveniles, a 163
law enforcement officer posing as a juvenile, or a group of law 164
enforcement officers posing as juveniles any material or 165
performance that is obscene or harmful to juveniles; 166

(2) Directly offer or agree to sell, deliver, furnish, 167
disseminate, provide, exhibit, rent, or present to a juvenile, a 168
group of juveniles, a law enforcement officer posing as a 169
juvenile, or a group of law enforcement officers posing as 170
juveniles any material or performance that is obscene or harmful 171
to juveniles; 172

(3) While in the physical proximity of the juvenile or law 173
enforcement officer posing as a juvenile, allow any juvenile or 174
law enforcement officer posing as a juvenile to review or peruse 175
any material or view any live performance that is harmful to 176
juveniles. 177

(B) The following are affirmative defenses to a charge 178
under this section that involves material or a performance that 179
is harmful to juveniles but not obscene: 180

(1) The defendant is the parent, guardian, or spouse of 181
the juvenile involved. 182

(2) The juvenile involved, at the time of the conduct in 183
question, was accompanied by the juvenile's parent or guardian 184
who, with knowledge of its character, consented to the material 185
or performance being furnished or presented to the juvenile. 186

(3) The juvenile exhibited to the defendant or to the defendant's agent or employee a draft card, driver's license, birth record, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.

(C)(1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial, or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, ~~clergyman~~ member of the clergy, prosecutor, judge, or other proper person.

(2) Except as provided in division (B)(3) of this section, mistake of age is not a defense to a charge under this section.

(D)(1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of

a method of mass distribution does not directly sell, deliver, 217
furnish, disseminate, provide, exhibit, rent, or present or 218
directly offer or agree to sell, deliver, furnish, disseminate, 219
provide, exhibit, rent, or present the material or performance 220
in question to a juvenile, a group of juveniles, a law 221
enforcement officer posing as a juvenile, or a group of law 222
enforcement officers posing as juveniles in violation of this 223
section if either of the following applies: 224

(a) The person has inadequate information to know or have 225
reason to believe that a particular recipient of the information 226
or offer is a juvenile. 227

(b) The method of mass distribution does not provide the 228
person the ability to prevent a particular recipient from 229
receiving the information. 230

(E) If any provision of this section, or the application 231
of any provision of this section to any person or circumstance, 232
is held invalid, the invalidity does not affect other provisions 233
or applications of this section or related sections that can be 234
given effect without the invalid provision or application. To 235
this end, the provisions are severable. 236

(F) (1) Whoever violates this section is guilty of 237
disseminating matter harmful to juveniles. If the material or 238
performance involved is harmful to juveniles, except as 239
otherwise provided in this division or division (F) (2) of this 240
section, a violation of this section is a misdemeanor of the 241
first degree. If the material or performance involved is 242
obscene, except as otherwise provided in this division or 243
division (F) (2) of this section, a violation of this section is 244
a felony of the fifth degree. If the material or performance 245
involved is obscene and the juvenile to whom it is sold, 246

delivered, furnished, disseminated, provided, exhibited, rented, 247
or presented, the juvenile to whom the offer is made or who is 248
the subject of the agreement, or the juvenile who is allowed to 249
review, peruse, or view it is under thirteen years of age, 250
except as otherwise provided in division (F)(2) of this section, 251
a violation of this section is a felony of the fourth degree. 252

(2) Notwithstanding division (F)(1) of this section, if a 253
person violates this section by privately transmitting to a 254
juvenile an image of the person in a state of nudity or engaged 255
in a sexual act, the person is not more than five years older 256
than the juvenile, and the person subsequently becomes a victim 257
of a violation of section 2917.211 of the Revised Code in 258
connection to the image, a violation of this section is a 259
misdemeanor of the third degree. 260

Sec. 2917.211. (A) As used in this section: 261

(1) "Disseminate" means to post, distribute, or publish on 262
a computer device, computer network, web site, or other 263
electronic device or medium of communication. 264

(2) "Image" means a photograph, film, videotape, digital 265
recording, or other depiction or portrayal of a person. 266

(3) "Interactive computer service" has the meaning defined 267
in the "Telecommunications Act of 1996," 47 U.S.C. 230, as 268
amended. 269

(4) "Internet provider" means a provider of internet 270
service, including all of the following: 271

(a) Broadband service, however defined or classified by 272
the federal communications commission; 273

(b) Information service, as defined in the 274

<u>"Telecommunications Act of 1996," 47 U.S.C. 153, as amended;</u>	275
<u>(c) Internet protocol-enabled services, as defined in</u>	276
<u>section 4927.01 of the Revised Code.</u>	277
<u>(5) "Mobile service" and "telecommunications carrier" have</u>	278
<u>the meanings defined in 47 U.S.C. 153, as amended.</u>	279
<u>(6) "Cable service provider" has the same meaning as in</u>	280
<u>section 1332.01 of the Revised Code.</u>	281
<u>(7) "Direct-to-home satellite service" has the meaning</u>	282
<u>defined in 47 U.S.C. 303, as amended.</u>	283
<u>(8) "Video service provider" has the same meaning as in</u>	284
<u>section 1332.21 of the Revised Code.</u>	285
<u>(9) "Sexual act" means any of the following:</u>	286
<u>(a) Sexual activity;</u>	287
<u>(b) Masturbation;</u>	288
<u>(c) An act involving a bodily substance that is performed</u>	289
<u>for the purpose of sexual arousal or gratification;</u>	290
<u>(d) Sado-masochistic abuse.</u>	291
<u>(B) No person shall knowingly disseminate an image of</u>	292
<u>another person if all of the following apply:</u>	293
<u>(1) The person in the image is eighteen years of age or</u>	294
<u>older.</u>	295
<u>(2) The person in the image can be identified from the</u>	296
<u>image itself or from information displayed in connection with</u>	297
<u>the image and the offender supplied the identifying information.</u>	298
<u>(3) The person in the image is in a state of nudity or is</u>	299
<u>engaged in a sexual act.</u>	300

- (4) The image is disseminated without consent from the person in the image. 301
302
- (5) The image is disseminated with intent to harm the person in the image. 303
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- (C) This section does not prohibit the dissemination of an image if any of the following apply: 305
306
- (1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful. 307
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- (2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct. 309
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- (3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work. 311
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- (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties. 315
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- (5) The image is disseminated for another lawful public purpose. 319
320
- (6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy. 321
322
323
324
- (7) The image is disseminated for the purpose of medical treatment or examination. 325
326
- (D) The following entities are not liable for a violation 327

<u>of this section solely as a result of an image or other</u>	328
<u>information provided by another person:</u>	329
<u>(1) A provider of interactive computer service;</u>	330
<u>(2) A mobile service;</u>	331
<u>(3) A telecommunications carrier;</u>	332
<u>(4) An internet provider;</u>	333
<u>(5) A cable service provider;</u>	334
<u>(6) A direct-to-home satellite service;</u>	335
<u>(7) A video service provider.</u>	336
<u>(E) Any conduct that is a violation of this section and</u>	337
<u>any other section of the Revised Code may be prosecuted under</u>	338
<u>this section, the other section, or both sections.</u>	339
<u>(F) (1) (a) Except as otherwise provided in division (F) (1)</u>	340
<u>(b), (c), or (d) of this section, whoever violates this section</u>	341
<u>is guilty of nonconsensual dissemination of private sexual</u>	342
<u>images, a misdemeanor of the first degree.</u>	343
<u>(b) If the offender previously has been convicted of or</u>	344
<u>pleaded guilty to a violation of this section, nonconsensual</u>	345
<u>dissemination of private sexual images is a felony of the fifth</u>	346
<u>degree.</u>	347
<u>(c) If the offender previously has been convicted of or</u>	348
<u>pleaded guilty to two or more violations of this section,</u>	349
<u>nonconsensual dissemination of private sexual images is a felony</u>	350
<u>of the fourth degree.</u>	351
<u>(d) If the offender is under eighteen years of age and the</u>	352
<u>person in the image is not more than five years older than the</u>	353
<u>offender, the offender shall not be prosecuted under this</u>	354

section. 355

(2) In addition to any other penalty or disposition 356
authorized or required by law, the court shall order any person 357
who is convicted of a violation of this section or who is 358
adjudicated delinquent by reason of a violation of this section 359
to criminally forfeit all of the following property to the state 360
under Chapter 2981. of the Revised Code: 361

(a) Any profits or proceeds and any property the person 362
has acquired or maintained in violation of this section that the 363
sentencing court determines to have been acquired or maintained 364
as a result of the violation; 365

(b) Any interest in, securities of, claim against, or 366
property or contractual right of any kind affording a source of 367
influence over any enterprise that the person has established, 368
operated, controlled, or conducted in violation of this section 369
that the sentencing court determines to have been acquired or 370
maintained as a result of the violation. 371

(G) A victim of a violation of this section may commence a 372
civil cause of action against the offender, as described in 373
section 2307.66 of the Revised Code. 374

Sec. 2981.02. (A) (1) The following property is subject to 375
forfeiture to the state or a political subdivision under either 376
the criminal or delinquency process in section 2981.04 of the 377
Revised Code or the civil process in section 2981.05 of the 378
Revised Code: 379

~~(1)~~ (a) Contraband involved in an offense; 380

~~(2)~~ (b) Proceeds derived from or acquired through the 381
commission of an offense; 382

~~(3)~~~~(c)~~ An instrumentality that is used in or intended to 383
be used in the commission or facilitation of any of the 384
following offenses when the use or intended use, consistent with 385
division (B) of this section, is sufficient to warrant 386
forfeiture under this chapter: 387

~~(a)~~~~(i)~~ A felony; 388

~~(b)~~~~(ii)~~ A misdemeanor, when forfeiture is specifically 389
authorized by a section of the Revised Code or by a municipal 390
ordinance that creates the offense or sets forth its penalties; 391

~~(c)~~~~(iii)~~ An attempt to commit, complicity in committing, 392
or a conspiracy to commit an offense of the type described in 393
divisions (A) (3) (a) and (b) of this section. 394

~~(B)~~~~(2)~~ In determining whether an alleged instrumentality 395
was used in or was intended to be used in the commission or 396
facilitation of an offense or an attempt, complicity, or 397
conspiracy to commit an offense in a manner sufficient to 398
warrant its forfeiture, the trier of fact shall consider the 399
following factors the trier of fact determines are relevant: 400

~~(1)~~~~(a)~~ Whether the offense could not have been committed 401
or attempted but for the presence of the instrumentality; 402

~~(2)~~~~(b)~~ Whether the primary purpose in using the 403
instrumentality was to commit or attempt to commit the offense; 404

~~(3)~~~~(c)~~ The extent to which the instrumentality furthered 405
the commission of, or attempt to commit, the offense. 406

(B) The property described in division (F) (2) of section 407
2917.211 of the Revised Code is subject to forfeiture under the 408
criminal or delinquency process in section 2981.04 of the 409
Revised Code. 410

(C) This chapter does not apply to or limit forfeitures 411
under Title XLV of the Revised Code, including forfeitures 412
relating to section 2903.06 or 2903.08 of the Revised Code. 413

Sec. 2981.04. (A) (1) Property described in division (A) or 414
(B) of section 2981.02 of the Revised Code may be forfeited 415
under this section only if the defendant is convicted of, or 416
enters intervention in lieu of conviction for, an offense or the 417
juvenile is adjudicated a delinquent child for committing an act 418
that would be an offense if committed by an adult and the 419
complaint, indictment, or information charging the offense or 420
municipal violation, or the complaint charging the delinquent 421
act, contains a specification of the type described in section 422
2941.1417 of the Revised Code that sets forth all of the 423
following to the extent it is reasonably known at the time of 424
the filing: 425

(a) The nature and extent of the alleged offender's or 426
delinquent child's interest in the property; 427

(b) A description of the property; 428

(c) If the property is alleged to be an instrumentality, 429
the alleged use or intended use of the property in the 430
commission or facilitation of the offense. 431

(2) If any property is not reasonably foreseen to be 432
subject to forfeiture at the time of filing the indictment, 433
information, or complaint, the trier of fact still may return a 434
verdict of forfeiture concerning that property in the hearing 435
described in division (B) of this section if the prosecutor, 436
upon discovering the property to be subject to forfeiture, gave 437
prompt notice of this fact to the alleged offender or delinquent 438
child under Criminal Rule 7(E) or Juvenile Rule 10(B). 439

(B) If a person pleads guilty to or is convicted of, or 440
enters intervention in lieu of conviction for, an offense or is 441
adjudicated a delinquent child for committing a delinquent act 442
and the complaint, indictment, or information charging the 443
offense or act contains a specification covering property 444
subject to forfeiture under section 2981.02 of the Revised Code, 445
the trier of fact shall determine whether the person's property 446
shall be forfeited. If the state or political subdivision proves 447
by clear and convincing evidence that the property is in whole 448
or part subject to forfeiture under section 2981.02 of the 449
Revised Code, after a proportionality review under section 450
2981.09 of the Revised Code when relevant, the trier of fact 451
shall return a verdict of forfeiture that specifically describes 452
the extent of the property subject to forfeiture. If the trier 453
of fact is a jury, on the offender's or delinquent child's 454
motion, the court shall make the determination of whether the 455
property shall be forfeited. 456

(C) If the court enters a verdict of forfeiture under this 457
section, the court imposing sentence or disposition, in addition 458
to any other sentence authorized by section 2951.041 or Chapter 459
2929. of the Revised Code or any disposition authorized by 460
Chapter 2152. of the Revised Code, shall order that the offender 461
or delinquent child forfeit to the state or political 462
subdivision the offender's or delinquent child's interest in the 463
property. The property vests with the state or political 464
subdivision subject to the claims of third parties. The court 465
may issue any additional order to affect the forfeiture, 466
including, but not limited to, an order under section 2981.06 of 467
the Revised Code. 468

(D) After the entry of a forfeiture order under this 469
section, the prosecutor shall attempt to identify any person 470

with an interest in the property subject to forfeiture by 471
searching appropriate public records and making reasonably 472
diligent inquiries. The prosecutor shall give notice of the 473
forfeiture that remains subject to the claims of third parties 474
and proposed disposal of the forfeited property to any person 475
known to have an interest in the property. The prosecutor also 476
shall publish notice of the forfeiture that remains subject to 477
the claims of third parties and proposed disposal of the 478
forfeited property once each week for two consecutive weeks in a 479
newspaper of general circulation in the county in which the 480
property was seized. 481

(E) (1) Any person, other than the offender or delinquent 482
child whose conviction or plea of guilty or delinquency 483
adjudication is the basis of the forfeiture order, who asserts a 484
legal interest in the property that is the subject of the order 485
may petition the court that issued the order for a hearing under 486
division (E) (3) of this section to adjudicate the validity of 487
the person's alleged interest in the property. All of the 488
following apply to the petition: 489

(a) It shall be filed within thirty days after the final 490
publication of notice or the person's receipt of notice under 491
division (D) of this section. 492

(b) It shall be signed by the petitioner under the 493
penalties for falsification specified in section 2921.13 of the 494
Revised Code. 495

(c) It shall describe the nature and extent of the 496
petitioner's interest in the property, the time and 497
circumstances of the petitioner's acquisition of that interest, 498
any additional facts supporting the petitioner's claim, and the 499
relief sought. 500

(d) It shall state that one of the following conditions 501
applies to the petitioner: 502

(i) The petitioner has a legal interest in the property 503
that is subject to the forfeiture order that renders the order 504
completely or partially invalid because the legal interest in 505
the property was vested in the petitioner, rather than the 506
offender or delinquent child whose conviction or plea of guilty 507
or delinquency adjudication is the basis of the order, or was 508
superior to any interest of that offender or delinquent child, 509
at the time of the commission of the offense or delinquent act 510
that is the basis of the order. 511

(ii) The petitioner is a bona fide purchaser for value of 512
the interest in the property that is subject to the forfeiture 513
order and was, at the time of the purchase, reasonably without 514
cause to believe that it was subject to forfeiture. 515

(2) (a) In lieu of filing a petition as described in 516
division (E) (1) of this section, a person, other than the 517
offender or delinquent child whose conviction or plea of guilty 518
or delinquency adjudication is the basis of the forfeiture 519
order, may file an affidavit as described in this division to 520
establish the validity of the alleged right, title, or interest 521
in the property that is the subject of the forfeiture order if 522
the person is a secured party or other lienholder of record that 523
asserts a legal interest in the property, including, but not 524
limited to, a mortgage, security interest, or other type of 525
lien. The affidavit shall contain averments that the secured 526
party or other lienholder acquired its alleged right, title, or 527
interest in the property in the regular course of its business, 528
for a specified valuable consideration, without actual knowledge 529
of any facts pertaining to the offense that was the basis of the 530

forfeiture order, in good faith, and without the intent to 531
prevent or otherwise impede the state or political subdivision 532
from seizing or obtaining a forfeiture of the property. The 533
person shall file the affidavit within thirty days after the 534
earlier of the final publication of notice or the receipt of 535
notice under division (D) of this section. 536

(b) Except as otherwise provided in this section, the 537
affidavit shall constitute prima-facie evidence of the validity 538
of the affiant's alleged interest in the property. 539

(c) Unless the prosecutor files a motion challenging the 540
affidavit within ten days after its filing and unless the 541
prosecutor establishes by clear and convincing evidence at the 542
hearing held under division (E) (3) of this section that the 543
affiant does not possess the alleged interest in the property or 544
that the affiant had actual knowledge of facts pertaining to the 545
offense or delinquent act that was the basis of the forfeiture 546
order, the affidavit shall constitute conclusive evidence of the 547
validity of the affiant's interest in the property. 548

(d) Any subsequent purchaser or other transferee of 549
property pursuant to forfeiture under this section shall take 550
the property subject to the continued validity of the interest 551
of the affiant. 552

(3) Upon receipt of a petition or affidavit filed under 553
division (E) (1) or (2) of this section, the court shall hold a 554
hearing to determine the validity of the petitioner's interest 555
in the property that is the subject of the forfeiture order or, 556
if the affidavit was challenged, to determine the validity of 557
the affiant's interest in the property. To the extent 558
practicable and consistent with the interests of justice, the 559
court shall hold the hearing within thirty days after the filing 560

of the petition or within thirty days after the prosecutor files 561
the motion challenging the affidavit. The court may consolidate 562
the hearing with a hearing on any other petition or affidavit 563
that is filed by a person other than the offender or delinquent 564
child whose conviction or plea of guilty or delinquency 565
adjudication is the basis of the forfeiture order and that 566
relates to the property that is the subject of the forfeiture 567
order. 568

At the hearing, the petitioner or affiant may testify, 569
present evidence and witnesses on the petitioner's or affiant's 570
behalf, and cross-examine witnesses for the state or political 571
subdivision. In regards to a petition, the state or political 572
subdivision may present evidence and witnesses in rebuttal and 573
in defense of its claim to the property and may cross-examine 574
witnesses for the petitioner. In regards to an affidavit, the 575
prosecutor may present evidence and witnesses and cross-examine 576
witnesses for the affiant. 577

In addition to the evidence and testimony presented at the 578
hearing, the court also shall consider the relevant portions of 579
the record in the criminal or delinquent child case that 580
resulted in the forfeiture order. 581

(F) (1) If the hearing involves a petition, the court shall 582
amend its forfeiture order if it determines at the hearing held 583
pursuant to division (E) (3) of this section that the petitioner 584
has established by a preponderance of the evidence that ~~that~~ the 585
applicable condition alleged by the petitioner under division 586
(E) (1) (d) of this section applies to the petitioner. 587

(2) The court also shall amend its forfeiture order to 588
reflect any interest of a secured party or other lienholder of 589
record in the property subject to forfeiture who prevails at a 590

hearing on the petition or affidavit filed pursuant to division 591
(E) (1) or (2) of this section. 592

(G) If the court disposes of all petitions or affidavits 593
timely filed under this section in favor of the state or 594
political subdivision, the state or political subdivision shall 595
have clear title to the property that is the subject of a 596
forfeiture order issued under this section, but only to the 597
extent that other parties' lawful interests in the property are 598
not infringed. To the extent that the state or political 599
subdivision has clear title to the property, the state or 600
political subdivision may warrant good title to any subsequent 601
purchaser or other transferee. 602

Sec. 3345.49. (A) No student who is enrolled in an 603
institution of higher education in Ohio and is the victim of a 604
violation of section 2917.211 of the Revised Code shall lose any 605
form of financial assistance provided by that institution for 606
educational expenses, including grants, scholarships, and 607
fellowships, for the sole reason of being the victim of such a 608
violation. Additionally, no institution of higher education 609
shall take any disciplinary action, including the imposition of 610
academic penalties, against that student for the sole reason of 611
being such a victim. 612

(B) If a person who is the victim of a violation of 613
section 2917.211 of the Revised Code applies to an institution 614
of higher education in Ohio, that person's status as such a 615
victim shall not affect the person's eligibility for any form of 616
financial assistance provided by the institution for educational 617
expenses, including grants, scholarships, and fellowships. 618

(C) As used in this section, "victim" has the same meaning 619
as in section 2930.01 of the Revised Code. 620

Section 2. That existing sections 2907.01, 2907.31, 621
2981.02, and 2981.04 of the Revised Code are hereby repealed. 622