

As Introduced

134th General Assembly

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H. B. No. 276

Representatives Powell, Schmidt

Cosponsors: Representatives Zeltwanger, Riedel, Jordan, Koehler, LaRe, O'Brien,
Vitale, McClain, Fowler Arthur, White, Bird, Manchester, Abrams, Wiggam

A BILL

To amend section 2923.31 and to enact section 1
2907.251 of the Revised Code to prohibit a 2
person from receiving proceeds of prostitution. 3

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

Section 1. That section 2923.31 be amended and section 4
2907.251 of the Revised Code be enacted to read as follows: 5

Sec. 2907.251. (A) As used in this section, "sexual 6
activity for hire" has the same meaning as in section 2907.24 of 7
the Revised Code. 8

(B) No person shall knowingly receive or acquire money or 9
any other thing of value from a prostitute earned from sexual 10
activity for hire. 11

(C) (1) Whoever violates this section is guilty of 12
receiving proceeds of prostitution. Except as provided in 13
division (C) (2) of this section, receiving proceeds of 14
prostitution is a felony of the third degree. 15

(2) If a person violates this section by knowingly 16

receiving or acquiring money or any other thing of value from a 17
prostitute under division (B) of this section and the prostitute 18
is under eighteen years of age, receiving proceeds of 19
prostitution is a felony of the second degree. 20

(D) Pursuant to section 2941.25 of the Revised Code: 21

(1) Where the same conduct by the defendant can be 22
construed to constitute a violation of this section and a 23
violation of one or more other offenses, if those offenses are 24
allied offenses of similar import, the indictment or information 25
may contain counts for all such offenses, but the defendant may 26
be convicted of only one. 27

(2) Where the defendant's conduct constitutes a violation 28
of this section and one or more other offenses of dissimilar 29
import, or where the defendant's conduct results in a violation 30
of this section and one or more other offenses of the same or 31
similar kind committed separately or with a separate animus as 32
to each, the indictment or information may contain counts for 33
all such offenses, and the defendant may be convicted of all of 34
them. 35

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of 36
the Revised Code: 37

(A) "Beneficial interest" means any of the following: 38

(1) The interest of a person as a beneficiary under a 39
trust in which the trustee holds title to personal or real 40
property; 41

(2) The interest of a person as a beneficiary under any 42
other trust arrangement under which any other person holds title 43
to personal or real property for the benefit of such person; 44

(3) The interest of a person under any other form of 45
express fiduciary arrangement under which any other person holds 46
title to personal or real property for the benefit of such 47
person. 48

"Beneficial interest" does not include the interest of a 49
stockholder in a corporation or the interest of a partner in 50
either a general or limited partnership. 51

(B) "Costs of investigation and prosecution" and "costs of 52
investigation and litigation" mean all of the costs incurred by 53
the state or a county or municipal corporation under sections 54
2923.31 to 2923.36 of the Revised Code in the prosecution and 55
investigation of any criminal action or in the litigation and 56
investigation of any civil action, and includes, but is not 57
limited to, the costs of resources and personnel. 58

(C) "Enterprise" includes any individual, sole 59
proprietorship, partnership, limited partnership, corporation, 60
trust, union, government agency, or other legal entity, or any 61
organization, association, or group of persons associated in 62
fact although not a legal entity. "Enterprise" includes illicit 63
as well as licit enterprises. 64

(D) "Innocent person" includes any bona fide purchaser of 65
property that is allegedly involved in a violation of section 66
2923.32 of the Revised Code, including any person who 67
establishes a valid claim to or interest in the property in 68
accordance with division (E) of section 2981.04 of the Revised 69
Code, and any victim of an alleged violation of that section or 70
of any underlying offense involved in an alleged violation of 71
that section. 72

(E) "Pattern of corrupt activity" means two or more 73

incidents of corrupt activity, whether or not there has been a 74
prior conviction, that are related to the affairs of the same 75
enterprise, are not isolated, and are not so closely related to 76
each other and connected in time and place that they constitute 77
a single event. 78

At least one of the incidents forming the pattern shall 79
occur on or after January 1, 1986. Unless any incident was an 80
aggravated murder or murder, the last of the incidents forming 81
the pattern shall occur within six years after the commission of 82
any prior incident forming the pattern, excluding any period of 83
imprisonment served by any person engaging in the corrupt 84
activity. 85

For the purposes of the criminal penalties that may be 86
imposed pursuant to section 2923.32 of the Revised Code, at 87
least one of the incidents forming the pattern shall constitute 88
a felony under the laws of this state in existence at the time 89
it was committed or, if committed in violation of the laws of 90
the United States or of any other state, shall constitute a 91
felony under the law of the United States or the other state and 92
would be a criminal offense under the law of this state if 93
committed in this state. 94

(F) "Pecuniary value" means money, a negotiable 95
instrument, a commercial interest, or anything of value, as 96
defined in section 1.03 of the Revised Code, or any other 97
property or service that has a value in excess of one hundred 98
dollars. 99

(G) "Person" means any person, as defined in section 1.59 100
of the Revised Code, and any governmental officer, employee, or 101
entity. 102

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, 1322.07, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2905.32 as specified in division (I)(2)(g) of this section, 2907.251, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2913.30, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (E) or (G) of section 3772.99; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 132
3769.19 of the Revised Code as it existed prior to July 1, 1996, 133
any violation of section 2915.02 of the Revised Code that occurs 134
on or after July 1, 1996, and that, had it occurred prior to 135
that date, would have been a violation of section 3769.11 of the 136
Revised Code as it existed prior to that date, or any violation 137
of section 2915.05 of the Revised Code that occurs on or after 138
July 1, 1996, and that, had it occurred prior to that date, 139
would have been a violation of section 3769.15, 3769.16, or 140
3769.19 of the Revised Code as it existed prior to that date. 141

(c) Any violation of section 2907.21, 2907.22, 2907.31, 142
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 143
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 144
of the Revised Code, any violation of section 2925.11 of the 145
Revised Code that is a felony of the first, second, third, or 146
fourth degree and that occurs on or after July 1, 1996, any 147
violation of section 2915.02 of the Revised Code that occurred 148
prior to July 1, 1996, any violation of section 2915.02 of the 149
Revised Code that occurs on or after July 1, 1996, and that, had 150
it occurred prior to that date, would not have been a violation 151
of section 3769.11 of the Revised Code as it existed prior to 152
that date, any violation of section 2915.06 of the Revised Code 153
as it existed prior to July 1, 1996, or any violation of 154
division (B) of section 2915.05 of the Revised Code as it exists 155
on and after July 1, 1996, when the proceeds of the violation, 156
the payments made in the violation, the amount of a claim for 157
payment or for any other benefit that is false or deceptive and 158
that is involved in the violation, or the value of the 159
contraband or other property illegally possessed, sold, or 160
purchased in the violation exceeds one thousand dollars, or any 161
combination of violations described in division (I) (2) (c) of 162

this section when the total proceeds of the combination of 163
violations, payments made in the combination of violations, 164
amount of the claims for payment or for other benefits that is 165
false or deceptive and that is involved in the combination of 166
violations, or value of the contraband or other property 167
illegally possessed, sold, or purchased in the combination of 168
violations exceeds one thousand dollars; 169

(d) Any violation of section 5743.112 of the Revised Code 170
when the amount of unpaid tax exceeds one hundred dollars; 171

(e) Any violation or combination of violations of section 172
2907.32 of the Revised Code involving any material or 173
performance containing a display of bestiality or of sexual 174
conduct, as defined in section 2907.01 of the Revised Code, that 175
is explicit and depicted with clearly visible penetration of the 176
genitals or clearly visible penetration by the penis of any 177
orifice when the total proceeds of the violation or combination 178
of violations, the payments made in the violation or combination 179
of violations, or the value of the contraband or other property 180
illegally possessed, sold, or purchased in the violation or 181
combination of violations exceeds one thousand dollars; 182

(f) Any combination of violations described in division 183
(I) (2) (c) of this section and violations of section 2907.32 of 184
the Revised Code involving any material or performance 185
containing a display of bestiality or of sexual conduct, as 186
defined in section 2907.01 of the Revised Code, that is explicit 187
and depicted with clearly visible penetration of the genitals or 188
clearly visible penetration by the penis of any orifice when the 189
total proceeds of the combination of violations, payments made 190
in the combination of violations, amount of the claims for 191
payment or for other benefits that is false or deceptive and 192

that is involved in the combination of violations, or value of 193
the contraband or other property illegally possessed, sold, or 194
purchased in the combination of violations exceeds one thousand 195
dollars; 196

(g) Any violation of section 2905.32 of the Revised Code 197
to the extent the violation is not based solely on the same 198
conduct that constitutes corrupt activity pursuant to division 199
(I) (2) (c) of this section due to the conduct being in violation 200
of section 2907.21 of the Revised Code. 201

(3) Conduct constituting a violation of any law of any 202
state other than this state that is substantially similar to the 203
conduct described in division (I) (2) of this section, provided 204
the defendant was convicted of the conduct in a criminal 205
proceeding in the other state; 206

(4) Animal or ecological terrorism; 207

(5) (a) Conduct constituting any of the following: 208

(i) Organized retail theft; 209

(ii) Conduct that constitutes one or more violations of 210
any law of any state other than this state, that is 211
substantially similar to organized retail theft, and that if 212
committed in this state would be organized retail theft, if the 213
defendant was convicted of or pleaded guilty to the conduct in a 214
criminal proceeding in the other state. 215

(b) By enacting division (I) (5) (a) of this section, it is 216
the intent of the general assembly to add organized retail theft 217
and the conduct described in division (I) (5) (a) (ii) of this 218
section as conduct constituting corrupt activity. The enactment 219
of division (I) (5) (a) of this section and the addition by 220
division (I) (5) (a) of this section of organized retail theft and 221

the conduct described in division (I) (5) (a) (ii) of this section 222
as conduct constituting corrupt activity does not limit or 223
preclude, and shall not be construed as limiting or precluding, 224
any prosecution for a violation of section 2923.32 of the 225
Revised Code that is based on one or more violations of section 226
2913.02 or 2913.51 of the Revised Code, one or more similar 227
offenses under the laws of this state or any other state, or any 228
combination of any of those violations or similar offenses, even 229
though the conduct constituting the basis for those violations 230
or offenses could be construed as also constituting organized 231
retail theft or conduct of the type described in division (I) (5) 232
(a) (ii) of this section. 233

(J) "Real property" means any real property or any 234
interest in real property, including, but not limited to, any 235
lease of, or mortgage upon, real property. Real property and any 236
beneficial interest in it is deemed to be located where the real 237
property is located. 238

(K) "Trustee" means any of the following: 239

(1) Any person acting as trustee under a trust in which 240
the trustee holds title to personal or real property; 241

(2) Any person who holds title to personal or real 242
property for which any other person has a beneficial interest; 243

(3) Any successor trustee. 244

"Trustee" does not include an assignee or trustee for an 245
insolvent debtor or an executor, administrator, administrator 246
with the will annexed, testamentary trustee, guardian, or 247
committee, appointed by, under the control of, or accountable to 248
a court. 249

(L) "Unlawful debt" means any money or other thing of 250

value constituting principal or interest of a debt that is 251
legally unenforceable in this state in whole or in part because 252
the debt was incurred or contracted in violation of any federal 253
or state law relating to the business of gambling activity or 254
relating to the business of lending money at an usurious rate 255
unless the creditor proves, by a preponderance of the evidence, 256
that the usurious rate was not intentionally set and that it 257
resulted from a good faith error by the creditor, 258
notwithstanding the maintenance of procedures that were adopted 259
by the creditor to avoid an error of that nature. 260

(M) "Animal activity" means any activity that involves the 261
use of animals or animal parts, including, but not limited to, 262
hunting, fishing, trapping, traveling, camping, the production, 263
preparation, or processing of food or food products, clothing or 264
garment manufacturing, medical research, other research, 265
entertainment, recreation, agriculture, biotechnology, or 266
service activity that involves the use of animals or animal 267
parts. 268

(N) "Animal facility" means a vehicle, building, 269
structure, nature preserve, or other premises in which an animal 270
is lawfully kept, handled, housed, exhibited, bred, or offered 271
for sale, including, but not limited to, a zoo, rodeo, circus, 272
amusement park, hunting preserve, or premises in which a horse 273
or dog event is held. 274

(O) "Animal or ecological terrorism" means the commission 275
of any felony that involves causing or creating a substantial 276
risk of physical harm to any property of another, the use of a 277
deadly weapon or dangerous ordnance, or purposely, knowingly, or 278
recklessly causing serious physical harm to property and that 279
involves an intent to obstruct, impede, or deter any person from 280

participating in a lawful animal activity, from mining, 281
forestry, harvesting, gathering, or processing natural 282
resources, or from being lawfully present in or on an animal 283
facility or research facility. 284

(P) "Research facility" means a place, laboratory, 285
institution, medical care facility, government facility, or 286
public or private educational institution in which a scientific 287
test, experiment, or investigation involving the use of animals 288
or other living organisms is lawfully carried out, conducted, or 289
attempted. 290

(Q) "Organized retail theft" means the theft of retail 291
property with a retail value of one thousand dollars or more 292
from one or more retail establishments with the intent to sell, 293
deliver, or transfer that property to a retail property fence. 294

(R) "Retail property" means any tangible personal property 295
displayed, held, stored, or offered for sale in or by a retail 296
establishment. 297

(S) "Retail property fence" means a person who possesses, 298
procures, receives, or conceals retail property that was 299
represented to the person as being stolen or that the person 300
knows or believes to be stolen. 301

(T) "Retail value" means the full retail value of the 302
retail property. In determining whether the retail value of 303
retail property equals or exceeds one thousand dollars, the 304
value of all retail property stolen from the retail 305
establishment or retail establishments by the same person or 306
persons within any one-hundred-eighty-day period shall be 307
aggregated. 308

Section 2. That existing section 2923.31 of the Revised 309

Code is hereby repealed. 310

Section 3. Section 2923.31 of the Revised Code is 311
presented in this act as a composite of the section as amended 312
by both H.B. 199 and H.B. 405 of the 132nd General Assembly. The 313
General Assembly, applying the principle stated in division (B) 314
of section 1.52 of the Revised Code that amendments are to be 315
harmonized if reasonably capable of simultaneous operation, 316
finds that the composite is the resulting version of the section 317
in effect prior to the effective date of the section as 318
presented in this act. 319