

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 462

Representatives Miller, K., Carfagna

Cosponsors: Representatives Schmidt, Riedel, Click, Zeltwanger, Fraizer, Lipps,
Johnson, LaRe, Stewart

A BILL

To amend section 2929.18 and to enact section 1
2917.321 of the Revised Code to prohibit 2
swatting. 3

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

Section 1. That section 2929.18 be amended and section 4
2917.321 of the Revised Code be enacted to read as follows: 5

Sec. 2917.321. (A) As used in this section: 6

(1) "Emergency response" means an action taken by a law 7
enforcement agency to preserve the life, health, safety, or 8
property of any person. 9

(2) "Public safety answering point" and "emergency service 10
provider" have the same meanings as in section 128.01 of the 11
Revised Code. 12

(3) "Telecommunications device" and "telecommunications 13
service" have the same meanings as in section 2913.01 of the 14
Revised Code. 15

(B) No person by means of a telecommunications device or 16

telecommunications service shall purposely trigger an emergency response when no emergency response is warranted by reporting or causing to be reported false or misleading information to a law enforcement agency, emergency service provider, or public safety answering point. 17
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(C) This section does not apply to any person conducting an authorized emergency drill. 22
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(D) (1) Whoever violates this section is guilty of swatting. 24
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(2) Except as otherwise provided in division (D) (3) of this section, swatting is a felony of the third degree. 26
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(3) If a violation of this section results in serious physical harm to any person, it is a felony of the first degree. 28
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(E) Prior to the sentencing of a person who has been convicted of or pleaded guilty to a violation of this section, the court shall enter an order that directs any law enforcement agency or emergency service provider involved in the emergency response that wishes to be reimbursed for the costs incurred by the agency or provider during the emergency response, to file with the court within a specified time an itemized statement of those costs. The court may then order the offender to reimburse the agency for all or a portion of those costs under section 2929.18 of the Revised Code. 30
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(F) Any act that is a violation of this section and any other section of the Revised Code may be prosecuted under this section, the other section, or both sections. 40
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Sec. 2929.18. (A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a 43
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sentence upon an offender for a felony may sentence the offender 46
to any financial sanction or combination of financial sanctions 47
authorized under this section or, in the circumstances specified 48
in section 2929.32 of the Revised Code, may impose upon the 49
offender a fine in accordance with that section. Financial 50
sanctions that may be imposed pursuant to this section include, 51
but are not limited to, the following: 52

(1) Restitution by the offender to the victim of the 53
offender's crime or any survivor of the victim, in an amount 54
based on the victim's economic loss. If the court imposes 55
restitution, the court shall order that the restitution be made 56
to the victim in open court, to the adult probation department 57
that serves the county on behalf of the victim, to the clerk of 58
courts, or to another agency designated by the court. If the 59
court imposes restitution, at sentencing, the court shall 60
determine the amount of restitution to be made by the offender. 61
If the court imposes restitution, the court may base the amount 62
of restitution it orders on an amount recommended by the victim, 63
the offender, a presentence investigation report, estimates or 64
receipts indicating the cost of repairing or replacing property, 65
and other information, provided that the amount the court orders 66
as restitution shall not exceed the amount of the economic loss 67
suffered by the victim as a direct and proximate result of the 68
commission of the offense. If the court imposes restitution for 69
the cost of accounting or auditing done to determine the extent 70
of economic loss, the court may order restitution for any amount 71
of the victim's costs of accounting or auditing provided that 72
the amount of restitution is reasonable and does not exceed the 73
value of property or services stolen or damaged as a result of 74
the offense. If the court decides to impose restitution, the 75
court shall hold a hearing on restitution if the offender, 76

victim, or survivor disputes the amount. All restitution 77
payments shall be credited against any recovery of economic loss 78
in a civil action brought by the victim or any survivor of the 79
victim against the offender. 80

If the court imposes restitution, the court may order that 81
the offender pay a surcharge of not more than five per cent of 82
the amount of the restitution otherwise ordered to the entity 83
responsible for collecting and processing restitution payments. 84

The victim or survivor may request that the prosecutor in 85
the case file a motion, or the offender may file a motion, for 86
modification of the payment terms of any restitution ordered. If 87
the court grants the motion, it may modify the payment terms as 88
it determines appropriate. 89

(2) Except as provided in division (B) (1), (3), or (4) of 90
this section, a fine payable by the offender to the state, to a 91
political subdivision, or as described in division (B) (2) of 92
this section to one or more law enforcement agencies, with the 93
amount of the fine based on a standard percentage of the 94
offender's daily income over a period of time determined by the 95
court and based upon the seriousness of the offense. A fine 96
ordered under this division shall not exceed the maximum 97
conventional fine amount authorized for the level of the offense 98
under division (A) (3) of this section. 99

(3) Except as provided in division (B) (1), (3), or (4) of 100
this section, a fine payable by the offender to the state, to a 101
political subdivision when appropriate for a felony, or as 102
described in division (B) (2) of this section to one or more law 103
enforcement agencies, in the following amount: 104

(a) For a felony of the first degree, not more than twenty 105

thousand dollars;	106
(b) For a felony of the second degree, not more than	107
fifteen thousand dollars;	108
(c) For a felony of the third degree, not more than ten	109
thousand dollars;	110
(d) For a felony of the fourth degree, not more than five	111
thousand dollars;	112
(e) For a felony of the fifth degree, not more than two	113
thousand five hundred dollars.	114
(4) A state fine or costs as defined in section 2949.111	115
of the Revised Code.	116
(5) (a) Reimbursement by the offender of any or all of the	117
costs of sanctions incurred by the government, including the	118
following:	119
(i) All or part of the costs of implementing any community	120
control sanction, including a supervision fee under section	121
2951.021 of the Revised Code;	122
(ii) All or part of the costs of confinement under a	123
sanction imposed pursuant to section 2929.14, 2929.142, or	124
2929.16 of the Revised Code, provided that the amount of	125
reimbursement ordered under this division shall not exceed the	126
total amount of reimbursement the offender is able to pay as	127
determined at a hearing and shall not exceed the actual cost of	128
the confinement;	129
(iii) All or part of the cost of purchasing and using an	130
immobilizing or disabling device, including a certified ignition	131
interlock device, or a remote alcohol monitoring device that a	132
court orders an offender to use under section 4510.13 of the	133

Revised Code.	134
(b) If the offender is sentenced to a sanction of	135
confinement pursuant to section 2929.14 or 2929.16 of the	136
Revised Code that is to be served in a facility operated by a	137
board of county commissioners, a legislative authority of a	138
municipal corporation, or another local governmental entity, if,	139
pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02,	140
753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and	141
section 2929.37 of the Revised Code, the board, legislative	142
authority, or other local governmental entity requires prisoners	143
to reimburse the county, municipal corporation, or other entity	144
for its expenses incurred by reason of the prisoner's	145
confinement, and if the court does not impose a financial	146
sanction under division (A) (5) (a) (ii) of this section,	147
confinement costs may be assessed pursuant to section 2929.37 of	148
the Revised Code. In addition, the offender may be required to	149
pay the fees specified in section 2929.38 of the Revised Code in	150
accordance with that section.	151
(c) Reimbursement by the offender for costs pursuant to	152
section 2929.71 of the Revised Code;	153
<u>(d) Reimbursement by the offender for costs pursuant to</u>	154
<u>section 2917.321 of the Revised Code.</u>	155
(B) (1) For a first, second, or third degree felony	156
violation of any provision of Chapter 2925., 3719., or 4729. of	157
the Revised Code, the sentencing court shall impose upon the	158
offender a mandatory fine of at least one-half of, but not more	159
than, the maximum statutory fine amount authorized for the level	160
of the offense pursuant to division (A) (3) of this section. If	161
an offender alleges in an affidavit filed with the court prior	162
to sentencing that the offender is indigent and unable to pay	163

the mandatory fine and if the court determines the offender is 164
an indigent person and is unable to pay the mandatory fine 165
described in this division, the court shall not impose the 166
mandatory fine upon the offender. 167

(2) Any mandatory fine imposed upon an offender under 168
division (B) (1) of this section and any fine imposed upon an 169
offender under division (A) (2) or (3) of this section for any 170
fourth or fifth degree felony violation of any provision of 171
Chapter 2925., 3719., or 4729. of the Revised Code shall be paid 172
to law enforcement agencies pursuant to division (F) of section 173
2925.03 of the Revised Code. 174

(3) For a fourth degree felony OVI offense and for a third 175
degree felony OVI offense, the sentencing court shall impose 176
upon the offender a mandatory fine in the amount specified in 177
division (G) (1) (d) or (e) of section 4511.19 of the Revised 178
Code, whichever is applicable. The mandatory fine so imposed 179
shall be disbursed as provided in the division pursuant to which 180
it is imposed. 181

(4) Notwithstanding any fine otherwise authorized or 182
required to be imposed under division (A) (2) or (3) or (B) (1) of 183
this section or section 2929.31 of the Revised Code for a 184
violation of section 2925.03 of the Revised Code, in addition to 185
any penalty or sanction imposed for that offense under section 186
2925.03 or sections 2929.11 to 2929.18 of the Revised Code and 187
in addition to the forfeiture of property in connection with the 188
offense as prescribed in Chapter 2981. of the Revised Code, the 189
court that sentences an offender for a violation of section 190
2925.03 of the Revised Code may impose upon the offender a fine 191
in addition to any fine imposed under division (A) (2) or (3) of 192
this section and in addition to any mandatory fine imposed under 193

division (B) (1) of this section. The fine imposed under division 194
(B) (4) of this section shall be used as provided in division (H) 195
of section 2925.03 of the Revised Code. A fine imposed under 196
division (B) (4) of this section shall not exceed whichever of 197
the following is applicable: 198

(a) The total value of any personal or real property in 199
which the offender has an interest and that was used in the 200
course of, intended for use in the course of, derived from, or 201
realized through conduct in violation of section 2925.03 of the 202
Revised Code, including any property that constitutes proceeds 203
derived from that offense; 204

(b) If the offender has no interest in any property of the 205
type described in division (B) (4) (a) of this section or if it is 206
not possible to ascertain whether the offender has an interest 207
in any property of that type in which the offender may have an 208
interest, the amount of the mandatory fine for the offense 209
imposed under division (B) (1) of this section or, if no 210
mandatory fine is imposed under division (B) (1) of this section, 211
the amount of the fine authorized for the level of the offense 212
imposed under division (A) (3) of this section. 213

(5) Prior to imposing a fine under division (B) (4) of this 214
section, the court shall determine whether the offender has an 215
interest in any property of the type described in division (B) 216
(4) (a) of this section. Except as provided in division (B) (6) or 217
(7) of this section, a fine that is authorized and imposed under 218
division (B) (4) of this section does not limit or affect the 219
imposition of the penalties and sanctions for a violation of 220
section 2925.03 of the Revised Code prescribed under those 221
sections or sections 2929.11 to 2929.18 of the Revised Code and 222
does not limit or affect a forfeiture of property in connection 223

with the offense as prescribed in Chapter 2981. of the Revised Code. 224
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(6) If the sum total of a mandatory fine amount imposed 226
for a first, second, or third degree felony violation of section 227
2925.03 of the Revised Code under division (B)(1) of this 228
section plus the amount of any fine imposed under division (B) 229
(4) of this section does not exceed the maximum statutory fine 230
amount authorized for the level of the offense under division 231
(A)(3) of this section or section 2929.31 of the Revised Code, 232
the court may impose a fine for the offense in addition to the 233
mandatory fine and the fine imposed under division (B)(4) of 234
this section. The sum total of the amounts of the mandatory 235
fine, the fine imposed under division (B)(4) of this section, 236
and the additional fine imposed under division (B)(6) of this 237
section shall not exceed the maximum statutory fine amount 238
authorized for the level of the offense under division (A)(3) of 239
this section or section 2929.31 of the Revised Code. The clerk 240
of the court shall pay any fine that is imposed under division 241
(B)(6) of this section to the county, township, municipal 242
corporation, park district as created pursuant to section 511.18 243
or 1545.04 of the Revised Code, or state law enforcement 244
agencies in this state that primarily were responsible for or 245
involved in making the arrest of, and in prosecuting, the 246
offender pursuant to division (F) of section 2925.03 of the 247
Revised Code. 248

(7) If the sum total of the amount of a mandatory fine 249
imposed for a first, second, or third degree felony violation of 250
section 2925.03 of the Revised Code plus the amount of any fine 251
imposed under division (B)(4) of this section exceeds the 252
maximum statutory fine amount authorized for the level of the 253
offense under division (A)(3) of this section or section 2929.31 254

of the Revised Code, the court shall not impose a fine under 255
division (B) (6) of this section. 256

(8) (a) If an offender who is convicted of or pleads guilty 257
to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 258
2923.32, division (A) (1) or (2) of section 2907.323 involving a 259
minor, or division (B) (1), (2), (3), (4), or (5) of section 260
2919.22 of the Revised Code also is convicted of or pleads 261
guilty to a specification of the type described in section 262
2941.1422 of the Revised Code that charges that the offender 263
knowingly committed the offense in furtherance of human 264
trafficking, the sentencing court shall sentence the offender to 265
a financial sanction of restitution by the offender to the 266
victim or any survivor of the victim, with the restitution 267
including the costs of housing, counseling, and medical and 268
legal assistance incurred by the victim as a direct result of 269
the offense and the greater of the following: 270

(i) The gross income or value to the offender of the 271
victim's labor or services; 272

(ii) The value of the victim's labor as guaranteed under 273
the minimum wage and overtime provisions of the "Federal Fair 274
Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and 275
state labor laws. 276

(b) If a court imposing sentence upon an offender for a 277
felony is required to impose upon the offender a financial 278
sanction of restitution under division (B) (8) (a) of this 279
section, in addition to that financial sanction of restitution, 280
the court may sentence the offender to any other financial 281
sanction or combination of financial sanctions authorized under 282
this section, including a restitution sanction under division 283
(A) (1) of this section. 284

(9) In addition to any other fine that is or may be 285
imposed under this section, the court imposing sentence upon an 286
offender for a felony that is a sexually oriented offense or a 287
child-victim oriented offense, as those terms are defined in 288
section 2950.01 of the Revised Code, may impose a fine of not 289
less than fifty nor more than five hundred dollars. 290

(10) For a felony violation of division (A) of section 291
2921.321 of the Revised Code that results in the death of the 292
police dog or horse that is the subject of the violation, the 293
sentencing court shall impose upon the offender a mandatory fine 294
from the range of fines provided under division (A) (3) of this 295
section for a felony of the third degree. A mandatory fine 296
imposed upon an offender under division (B) (10) of this section 297
shall be paid to the law enforcement agency that was served by 298
the police dog or horse that was killed in the felony violation 299
of division (A) of section 2921.321 of the Revised Code to be 300
used as provided in division (E) (1) (b) of that section. 301

(11) In addition to any other fine that is or may be 302
imposed under this section, the court imposing sentence upon an 303
offender for any of the following offenses that is a felony may 304
impose a fine of not less than seventy nor more than five 305
hundred dollars, which shall be transmitted to the treasurer of 306
state to be credited to the address confidentiality program fund 307
created by section 111.48 of the Revised Code: 308

(a) Domestic violence; 309

(b) Menacing by stalking; 310

(c) Rape; 311

(d) Sexual battery; 312

(e) Trafficking in persons; 313

(f) A violation of section 2905.01, 2905.02, 2907.21, 314
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 315
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 316
section 2919.22 of the Revised Code, if the offender also is 317
convicted of a specification of the type described in section 318
2941.1422 of the Revised Code that charges that the offender 319
knowingly committed the offense in furtherance of human 320
trafficking. 321

(C) (1) Except as provided in section 2951.021 of the 322
Revised Code, the offender shall pay reimbursements imposed upon 323
the offender pursuant to division (A) (5) (a) of this section to 324
pay the costs incurred by a county pursuant to any sanction 325
imposed under this section or section 2929.16 or 2929.17 of the 326
Revised Code or in operating a facility used to confine 327
offenders pursuant to a sanction imposed under section 2929.16 328
of the Revised Code to the county treasurer. The county 329
treasurer shall deposit the reimbursements in the sanction cost 330
reimbursement fund that each board of county commissioners shall 331
create in its county treasury. The county shall use the amounts 332
deposited in the fund to pay the costs incurred by the county 333
pursuant to any sanction imposed under this section or section 334
2929.16 or 2929.17 of the Revised Code or in operating a 335
facility used to confine offenders pursuant to a sanction 336
imposed under section 2929.16 of the Revised Code. 337

(2) Except as provided in section 2951.021 of the Revised 338
Code, the offender shall pay reimbursements imposed upon the 339
offender pursuant to division (A) (5) (a) of this section to pay 340
the costs incurred by a municipal corporation pursuant to any 341
sanction imposed under this section or section 2929.16 or 342
2929.17 of the Revised Code or in operating a facility used to 343
confine offenders pursuant to a sanction imposed under section 344

2929.16 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in a special fund that shall be established in the treasury of each municipal corporation. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 of the Revised Code, the offender shall pay reimbursements imposed pursuant to division (A) (5) (a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A) (5) (a) (ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of a mandatory fine imposed under division

(B) (10) of this section that is required under that division to 376
be paid to a law enforcement agency is a judgment in favor of 377
the specified law enforcement agency, and the offender subject 378
to the financial sanction is the judgment debtor. A financial 379
sanction of restitution imposed pursuant to division (A) (1) or 380
(B) (8) of this section is an order in favor of the victim of the 381
offender's criminal act that can be collected through a 382
certificate of judgment as described in division (D) (1) of this 383
section, through execution as described in division (D) (2) of 384
this section, or through an order as described in division (D) 385
(3) of this section, and the offender shall be considered for 386
purposes of the collection as the judgment debtor. Imposition of 387
a financial sanction and execution on the judgment does not 388
preclude any other power of the court to impose or enforce 389
sanctions on the offender. Once the financial sanction is 390
imposed as a judgment or order under this division, the victim, 391
private provider, state, or political subdivision may do any of 392
the following: 393

(1) Obtain from the clerk of the court in which the 394
judgment was entered a certificate of judgment that shall be in 395
the same manner and form as a certificate of judgment issued in 396
a civil action; 397

(2) Obtain execution of the judgment or order through any 398
available procedure, including: 399

(a) An execution against the property of the judgment 400
debtor under Chapter 2329. of the Revised Code; 401

(b) An execution against the person of the judgment debtor 402
under Chapter 2331. of the Revised Code; 403

(c) A proceeding in aid of execution under Chapter 2333. 404

of the Revised Code, including:	405
(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;	406 407 408
(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;	409 410
(iii) A creditor's suit under section 2333.01 of the Revised Code.	411 412
(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;	413 414
(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.	415 416
(3) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.	417 418
(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.	419 420 421 422
(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender	423 424 425 426 427 428 429 430 431 432

pursuant to any financial sanction imposed pursuant to this 433
section or section 2929.32 of the Revised Code, a court shall 434
comply with sections 307.86 to 307.92 of the Revised Code. 435

(G) If a court that imposes a financial sanction under 436
division (A) or (B) of this section finds that an offender 437
satisfactorily has completed all other sanctions imposed upon 438
the offender and that all restitution that has been ordered has 439
been paid as ordered, the court may suspend any financial 440
sanctions imposed pursuant to this section or section 2929.32 of 441
the Revised Code that have not been paid. 442

(H) No financial sanction imposed under this section or 443
section 2929.32 of the Revised Code shall preclude a victim from 444
bringing a civil action against the offender. 445

Section 2. That existing section 2929.18 of the Revised 446
Code is hereby repealed. 447