

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 353**

**Senator Schiavoni**

**Cosponsors: Senators Thomas, Yuko, Brown**

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**A BILL**

To amend sections 2907.01, 2907.31, 2981.02, and 2981.04 and to enact sections 9.75, 2307.54, 2917.211, 3345.58, 4113.83, 4113.84, 4113.85, 4113.86, and 4113.87 of the Revised Code to prohibit the nonconsensual dissemination of private sexual images, to require that certain property involved in the offense be criminally forfeited, and to create certain legal rights and employment protections of a victim of the offense.

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

**Section 1.** That sections 2907.01, 2907.31, 2981.02, and 2981.04 be amended and sections 9.75, 2307.54, 2917.211, 3345.58, 4113.83, 4113.84, 4113.85, 4113.86, and 4113.87 of the Revised Code be enacted to read as follows:

**Sec. 9.75.** (A) As used in this section:

(1) "License" means a license, certificate, registration, permit, card, or other authority issued or conferred by a licensing authority of which the licensee has or claims the

privilege to engage in the profession, occupation, or activity, 19  
or to have control of and operate certain specific equipment, 20  
machinery, or premises, over which the licensing authority has 21  
jurisdiction. 22

(2) "Licensing authority" means a public office that 23  
issues a license to a person or entity. 24

(3) "Political subdivision" means a county, township, 25  
municipal corporation, or any other body corporate and politic 26  
that is responsible for government activities in a geographic 27  
area smaller than that of the state. 28

(4) "Public office" means any state agency, public 29  
institution, political subdivision, other organized body, 30  
office, agency, institution, or entity established by the laws 31  
of this state for the exercise of any function of government. 32  
"Public office" does not include the nonprofit corporation 33  
formed under section 187.01 of the Revised Code. 34

(5) "Victim" has the same meaning as in section 2930.01 of 35  
the Revised Code. 36

(B) No licensing authority shall knowingly take any of the 37  
following actions against a person who is applying for or holds 38  
a license solely on the basis that the person is a victim of a 39  
violation of section 2917.211 of the Revised Code: 40

(1) Refuse to issue a license to an applicant; 41

(2) Limit, suspend, or revoke a license; 42

(3) Refuse to renew a license. 43

**Sec. 2307.54.** (A) A victim of a violation of section 44  
2917.211 of the Revised Code has and may commence a civil cause 45  
of action against the offender for any of the following, in 46

addition to reasonable attorney's fees and the costs of bringing 47  
the action: 48

(1) An injunction or a temporary restraining order 49  
prohibiting further dissemination of the image that is the 50  
subject of the violation; 51

(2) Compensatory and punitive damages for harm resulting 52  
from the violation. 53

(B) 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

(C) 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 engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

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

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

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

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

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

(1) Its dominant appeal is to prurient interest;

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

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

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(G) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(H) "Nudity" means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

(I) "Juvenile" means an unmarried person under the age of eighteen.

(J) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other

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

<b>Sec. 2907.31.</b> (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	187
defendant's agent or employee a draft card, driver's license,	188

birth record, marriage license, or other official or apparently 189  
official document purporting to show that the juvenile was 190  
eighteen years of age or over or married, and the person to whom 191  
that document was exhibited did not otherwise have reasonable 192  
cause to believe that the juvenile was under the age of eighteen 193  
and unmarried. 194

(C) (1) It is an affirmative defense to a charge under this 195  
section, involving material or a performance that is obscene or 196  
harmful to juveniles, that the material or performance was 197  
furnished or presented for a bona fide medical, scientific, 198  
educational, governmental, judicial, or other proper purpose, by 199  
a physician, psychologist, sociologist, scientist, teacher, 200  
librarian, ~~clergyman~~ member of the clergy, prosecutor, judge, or 201  
other proper person. 202

(2) Except as provided in division (B) (3) of this section, 203  
mistake of age is not a defense to a charge under this section. 204

(D) (1) A person directly sells, delivers, furnishes, 205  
disseminates, provides, exhibits, rents, or presents or directly 206  
offers or agrees to sell, deliver, furnish, disseminate, 207  
provide, exhibit, rent, or present material or a performance to 208  
a juvenile, a group of juveniles, a law enforcement officer 209  
posing as a juvenile, or a group of law enforcement officers 210  
posing as juveniles in violation of this section by means of an 211  
electronic method of remotely transmitting information if the 212  
person knows or has reason to believe that the person receiving 213  
the information is a juvenile or the group of persons receiving 214  
the information are juveniles. 215

(2) A person remotely transmitting information by means of 216  
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  
"Telecommunications Act of 1996," 47 U.S.C. 153, as amended; 275

(c) Internet protocol-enabled services, as defined in 276

<u>section 4927.01 of the Revised Code.</u>	277
<u>(5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.</u>	278 279
<u>(6) "Cable service provider" has the same meaning as in section 1332.01 of the Revised Code.</u>	280 281
<u>(7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.</u>	282 283
<u>(8) "Video service provider" has the same meaning as in section 1332.21 of the Revised Code.</u>	284 285
<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 for the purpose of sexual arousal or gratification;</u>	289 290
<u>(d) Sado-masochistic abuse.</u>	291
<u>(B) No person shall knowingly disseminate an image of another person if all of the following apply:</u>	292 293
<u>(1) The person in the image is eighteen years of age or older.</u>	294 295
<u>(2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.</u>	296 297 298
<u>(3) The person in the image is in a state of nudity or is engaged in a sexual act.</u>	299 300
<u>(4) The offender knows or reasonably should know that the person in the image has not consented to the dissemination, has</u>	301 302

revoked consent to the dissemination, or consented because of 303  
physical force, the threat of physical force, duress, or 304  
coercion. 305

(5) The offender obtained the image under circumstances in 306  
which a reasonable person would know or understand that the 307  
image was intended to remain private. 308

(C) This section does not prohibit the dissemination of an 309  
image if any of the following apply: 310

(1) The image is disseminated for the purpose of a 311  
criminal investigation that is otherwise lawful. 312

(2) The image is disseminated for the purpose of, or in 313  
connection with, the reporting of unlawful conduct. 314

(3) The image is part of a news report or commentary or an 315  
artistic or expressive work, such as a performance, work of art, 316  
literary work, theatrical work, musical work, motion picture, 317  
film, or audiovisual work. 318

(4) The image is disseminated by a law enforcement 319  
officer, or a corrections officer or guard in a detention 320  
facility, acting within the scope of the person's official 321  
duties. 322

(5) The image is disseminated for another lawful public 323  
purpose. 324

(6) The person in the image is knowingly and willingly in 325  
a state of nudity or engaged in a sexual act and is knowingly 326  
and willingly in a location in which the person does not have a 327  
reasonable expectation of privacy. 328

(7) The image is disseminated for the purpose of medical 329  
treatment or examination. 330

(D) The following entities are not liable for a violation 331  
of this section solely as a result of an image or other 332  
information provided by another person: 333

(1) A provider of interactive computer service; 334

(2) A mobile service; 335

(3) A telecommunications carrier; 336

(4) An internet provider; 337

(5) A cable service provider; 338

(6) A direct-to-home satellite service; 339

(7) A video service provider. 340

(E) Any conduct that is a violation of this section and 341  
any other section of the Revised Code may be prosecuted under 342  
this section, the other section, or both sections. 343

(F) (1) (a) Except as otherwise provided in division (F) (1) 344  
(b) or (c) of this section, whoever violates this section is 345  
guilty of nonconsensual dissemination of private sexual images, 346  
a misdemeanor of the first degree. 347

(b) If the offender has previously been convicted of a 348  
violation of this section, nonconsensual dissemination of 349  
private sexual images is a felony of the fifth degree. 350

(c) If the offender is under eighteen years of age and the 351  
person in the image is not more than five years older than the 352  
offender, the offender shall not be prosecuted under this 353  
section. 354

(2) In addition to any other penalty or disposition 355  
authorized or required by law, the court shall order any person 356  
who is convicted of a violation of this section or who is 357

adjudicated delinquent by reason of a violation of this section 358  
to criminally forfeit all of the following property to the state 359  
under Chapter 2981. of the Revised Code: 360

(a) Any profits or proceeds and any property the person 361  
has acquired or maintained in violation of this section that the 362  
sentencing court determines to have been acquired or maintained 363  
as a result of the violation; 364

(b) Any interest in, securities of, claim against, or 365  
property or contractual right of any kind affording a source of 366  
influence over any enterprise that the person has established, 367  
operated, controlled, or conducted in violation of this section 368  
that the sentencing court determines to have been acquired or 369  
maintained as a result of the violation. 370

(G) A victim of a violation of this section may commence a 371  
civil cause of action against the offender, as described in 372  
section 2307.54 of the Revised Code. 373

**Sec. 2981.02.** (A) (1) The following property is subject to 374  
forfeiture to the state or a political subdivision under either 375  
the criminal or delinquency process in section 2981.04 of the 376  
Revised Code or the civil process in section 2981.05 of the 377  
Revised Code: 378

~~(1)~~ (a) Contraband involved in an offense; 379

~~(2)~~ (b) Proceeds derived from or acquired through the 380  
commission of an offense; 381

~~(3)~~ (c) An instrumentality that is used in or intended to 382  
be used in the commission or facilitation of any of the 383  
following offenses when the use or intended use, consistent with 384  
division (B) of this section, is sufficient to warrant 385  
forfeiture under this chapter: 386

<del>(a)</del> <u>(i)</u> A felony;	387
<del>(b)</del> <u>(ii)</u> A misdemeanor, when forfeiture is specifically authorized by a section of the Revised Code or by a municipal ordinance that creates the offense or sets forth its penalties;	388 389 390
<del>(c)</del> <u>(iii)</u> An attempt to commit, complicity in committing, or a conspiracy to commit an offense of the type described in divisions (A) (3) (a) and (b) of this section.	391 392 393
<del>(B)</del> <u>(2)</u> In determining whether an alleged instrumentality was used in or was intended to be used in the commission or facilitation of an offense or an attempt, complicity, or conspiracy to commit an offense in a manner sufficient to warrant its forfeiture, the trier of fact shall consider the following factors the trier of fact determines are relevant:	394 395 396 397 398 399
<del>(1)</del> <u>(a)</u> Whether the offense could not have been committed or attempted but for the presence of the instrumentality;	400 401
<del>(2)</del> <u>(b)</u> Whether the primary purpose in using the instrumentality was to commit or attempt to commit the offense;	402 403
<del>(3)</del> <u>(c)</u> The extent to which the instrumentality furthered the commission of, or attempt to commit, the offense.	404 405
<u>(B) The property described in division (F) (2) of section 2917.211 of the Revised Code is subject to forfeiture under the criminal or delinquency process in section 2981.04 of the Revised Code.</u>	406 407 408 409
(C) This chapter does not apply to or limit forfeitures under Title XLV of the Revised Code, including forfeitures relating to section 2903.06 or 2903.08 of the Revised Code.	410 411 412
<b>Sec. 2981.04.</b> (A) (1) Property described in division (A) <u>or</u> <u>(B)</u> of section 2981.02 of the Revised Code may be forfeited	413 414

under this section only if the complaint, indictment, or 415  
information charging the offense or municipal violation, or the 416  
complaint charging the delinquent act, contains a specification 417  
of the type described in section 2941.1417 of the Revised Code 418  
that sets forth all of the following to the extent it is 419  
reasonably known at the time of the filing: 420

(a) The nature and extent of the alleged offender's or 421  
delinquent child's interest in the property; 422

(b) A description of the property; 423

(c) If the property is alleged to be an instrumentality, 424  
the alleged use or intended use of the property in the 425  
commission or facilitation of the offense. 426

(2) If any property is not reasonably foreseen to be 427  
subject to forfeiture at the time of filing the indictment, 428  
information, or complaint, the trier of fact still may return a 429  
verdict of forfeiture concerning that property in the hearing 430  
described in division (B) of this section if the prosecutor, 431  
upon discovering the property to be subject to forfeiture, gave 432  
prompt notice of this fact to the alleged offender or delinquent 433  
child under Criminal Rule 7(E) or Juvenile Rule 10(B). 434

(3) For good cause shown, the court may consider issues of 435  
the guilt of the alleged offender or the delinquency of the 436  
alleged delinquent child separate from whether property 437  
specified as subject to forfeiture should be forfeited. 438

(B) If a person pleads guilty to or is convicted of an 439  
offense or is adjudicated a delinquent child for committing a 440  
delinquent act and the complaint, indictment, or information 441  
charging the offense or act contains a specification covering 442  
property subject to forfeiture under section 2981.02 of the 443

Revised Code, the trier of fact shall determine whether the 444  
person's property shall be forfeited. If the state or political 445  
subdivision proves by a preponderance of the evidence that the 446  
property is in whole or part subject to forfeiture under section 447  
2981.02 of the Revised Code, after a proportionality review 448  
under section 2981.09 of the Revised Code when relevant, the 449  
trier of fact shall return a verdict of forfeiture that 450  
specifically describes the extent of the property subject to 451  
forfeiture. If the trier of fact is a jury, on the offender's or 452  
delinquent child's motion, the court shall make the 453  
determination of whether the property shall be forfeited. 454

(C) If the court enters a verdict of forfeiture under this 455  
section, the court imposing sentence or disposition, in addition 456  
to any other sentence authorized by Chapter 2929. of the Revised 457  
Code or any disposition authorized by Chapter 2152. of the 458  
Revised Code, shall order that the offender or delinquent child 459  
forfeit to the state or political subdivision the offender's or 460  
delinquent child's interest in the property. The property vests 461  
with the state or political subdivision subject to the claims of 462  
third parties. The court may issue any additional order to 463  
affect the forfeiture, including, but not limited to, an order 464  
under section 2981.06 of the Revised Code. 465

(D) After the entry of a forfeiture order under this 466  
section, the prosecutor shall attempt to identify any person 467  
with an interest in the property subject to forfeiture by 468  
searching appropriate public records and making reasonably 469  
diligent inquiries. The prosecutor shall give notice of the 470  
forfeiture that remains subject to the claims of third parties 471  
and proposed disposal of the forfeited property to any person 472  
known to have an interest in the property. The prosecutor also 473  
shall publish notice of the forfeiture that remains subject to 474

the claims of third parties and proposed disposal of the 475  
forfeited property once each week for two consecutive weeks in a 476  
newspaper of general circulation in the county in which the 477  
property was seized. 478

(E) (1) Any person, other than the offender or delinquent 479  
child whose conviction or plea of guilty or delinquency 480  
adjudication is the basis of the forfeiture order, who asserts a 481  
legal interest in the property that is the subject of the order 482  
may petition the court that issued the order for a hearing under 483  
division (E) (3) of this section to adjudicate the validity of 484  
the person's alleged interest in the property. All of the 485  
following apply to the petition: 486

(a) It shall be filed within thirty days after the final 487  
publication of notice or the person's receipt of notice under 488  
division (D) of this section. 489

(b) It shall be signed by the petitioner under the 490  
penalties for falsification specified in section 2921.13 of the 491  
Revised Code. 492

(c) It shall describe the nature and extent of the 493  
petitioner's interest in the property, the time and 494  
circumstances of the petitioner's acquisition of that interest, 495  
any additional facts supporting the petitioner's claim, and the 496  
relief sought. 497

(2) (a) In lieu of filing a petition as described in 498  
division (E) (1) of this section, a person, other than the 499  
offender or delinquent child whose conviction or plea of guilty 500  
or delinquency adjudication is the basis of the forfeiture 501  
order, may file an affidavit as described in this division to 502  
establish the validity of the alleged right, title, or interest 503

in the property that is the subject of the forfeiture order if 504  
the person is a secured party or other lienholder of record that 505  
asserts a legal interest in the property, including, but not 506  
limited to, a mortgage, security interest, or other type of 507  
lien. The affidavit shall contain averments that the secured 508  
party or other lienholder acquired its alleged right, title, or 509  
interest in the property in the regular course of its business, 510  
for a specified valuable consideration, without actual knowledge 511  
of any facts pertaining to the offense that was the basis of the 512  
forfeiture order, in good faith, and without the intent to 513  
prevent or otherwise impede the state or political subdivision 514  
from seizing or obtaining a forfeiture of the property. The 515  
person shall file the affidavit within thirty days after the 516  
earlier of the final publication of notice or the receipt of 517  
notice under division (D) of this section. 518

(b) Except as otherwise provided in this section, the 519  
affidavit shall constitute prima-facie evidence of the validity 520  
of the affiant's alleged interest in the property. 521

(c) Unless the prosecutor files a motion challenging the 522  
affidavit within ten days after its filing and unless the 523  
prosecutor establishes by a preponderance of the evidence at the 524  
hearing held under division (E) (3) of this section that the 525  
affiant does not possess the alleged interest in the property or 526  
that the affiant had actual knowledge of facts pertaining to the 527  
offense or delinquent act that was the basis of the forfeiture 528  
order, the affidavit shall constitute conclusive evidence of the 529  
validity of the affiant's interest in the property. 530

(d) Any subsequent purchaser or other transferee of 531  
property pursuant to forfeiture under this section shall take 532  
the property subject to the continued validity of the interest 533

of the affiant. 534

(3) Upon receipt of a petition or affidavit filed under 535  
division (E)(1) or (2) of this section, the court shall hold a 536  
hearing to determine the validity of the petitioner's interest 537  
in the property that is the subject of the forfeiture order or, 538  
if the affidavit was challenged, to determine the validity of 539  
the affiant's interest in the property. To the extent 540  
practicable and consistent with the interests of justice, the 541  
court shall hold the hearing within thirty days after the filing 542  
of the petition or within thirty days after the prosecutor files 543  
the motion challenging the affidavit. The court may consolidate 544  
the hearing with a hearing on any other petition or affidavit 545  
that is filed by a person other than the offender or delinquent 546  
child whose conviction or plea of guilty or delinquency 547  
adjudication is the basis of the forfeiture order and that 548  
relates to the property that is the subject of the forfeiture 549  
order. 550

At the hearing, the petitioner or affiant may testify, 551  
present evidence and witnesses on the petitioner's or affiant's 552  
behalf, and cross-examine witnesses for the state or political 553  
subdivision. In regards to a petition, the state or political 554  
subdivision may present evidence and witnesses in rebuttal and 555  
in defense of its claim to the property and may cross-examine 556  
witnesses for the petitioner. In regards to an affidavit, the 557  
prosecutor may present evidence and witnesses and cross-examine 558  
witnesses for the affiant. 559

In addition to the evidence and testimony presented at the 560  
hearing, the court also shall consider the relevant portions of 561  
the record in the criminal or delinquent child case that 562  
resulted in the forfeiture order. 563

(F) (1) If the hearing involves a petition, the court shall 564  
amend its forfeiture order if it determines at the hearing held 565  
pursuant to division (E) (3) of this section that the petitioner 566  
has established either of the following by a preponderance of 567  
the evidence: 568

(a) The petitioner has a legal interest in the property 569  
that is subject to the forfeiture order that renders the order 570  
completely or partially invalid because the legal interest in 571  
the property was vested in the petitioner, rather than the 572  
offender or delinquent child whose conviction or plea of guilty 573  
or delinquency adjudication is the basis of the order, or was 574  
superior to any interest of that offender or delinquent child, 575  
at the time of the commission of the offense or delinquent act 576  
that is the basis of the order. 577

(b) The petitioner is a bona fide purchaser for value of 578  
the interest in the property that is subject to the forfeiture 579  
order and was, at the time of the purchase, reasonably without 580  
cause to believe that it was subject to forfeiture. 581

(2) The court also shall amend its forfeiture order to 582  
reflect any interest of a secured party or other lienholder of 583  
record in the property subject to forfeiture who prevails at a 584  
hearing on the petition or affidavit filed pursuant to division 585  
(E) (1) or (2) of this section. 586

(G) If the court disposes of all petitions or affidavits 587  
timely filed under this section in favor of the state or 588  
political subdivision, the state or political subdivision shall 589  
have clear title to the property that is the subject of a 590  
forfeiture order issued under this section, but only to the 591  
extent that other parties' lawful interests in the property are 592  
not infringed. To the extent that the state or political 593

subdivision has clear title to the property, the state or 594  
political subdivision may warrant good title to any subsequent 595  
purchaser or other transferee. 596

**Sec. 3345.58.** (A) No student who is enrolled in an 597  
institution of higher education in Ohio and is the victim of a 598  
violation of section 2917.211 of the Revised Code shall lose any 599  
form of financial assistance provided by that institution for 600  
educational expenses, including grants, scholarships, and 601  
fellowships, for the sole reason of being the victim of such a 602  
violation. Additionally, no institution of higher education 603  
shall take any disciplinary action, including the imposition of 604  
academic penalties, against that student for the sole reason of 605  
being such a victim. 606

(B) If a person who is the victim of a violation of 607  
section 2917.211 of the Revised Code applies to an institution 608  
of higher education in Ohio, that person's status as such a 609  
victim shall not affect the person's eligibility for any form of 610  
financial assistance provided by the institution for educational 611  
expenses, including grants, scholarships, and fellowships. 612

(C) As used in this section, "victim" has the same meaning 613  
as in section 2930.01 of the Revised Code. 614

**Sec. 4113.83.** As used in this section and sections 4113.84 615  
to 4113.87 of the Revised Code: 616

(A) "Employee" has the same meaning as in section 4113.51 617  
of the Revised Code. 618

(B) "Employer" means any of the following: 619

(1) The state and any agency or instrumentality of the 620  
state; 621

- (2) A political subdivision of the state and any agency or instrumentality of the political subdivision; 622  
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- (3) Any individual, partnership, association, corporation, or business trust. 624  
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- (C) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. 626  
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- (D) "Reasonable accommodation" includes a changed work telephone number, transfer to a different department or location of the employer, modified employment schedules, assistance with documenting any harassment occurring at the workplace or in work-related settings, and time off work. 630  
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- (E) "Undue hardship" means any requirement that would require an employer to take an action with significant difficulty or expense when considered in light of factors, including all of the following: 635  
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- (1) The nature and cost of the accommodation; 639
- (2) The overall financial resources of the employer; 640
- (3) The overall size of the employer's business with respect to the number of employees; 641  
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- (4) The number, type, and location of the employer's facilities; 643  
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- (5) The effect on the employer's expenses and resources or the impact otherwise of the accommodation on the employer's operation. 645  
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- (F) "Victim" has the same meaning as in section 2930.01 of 648

the Revised Code. 649

Sec. 4113.84. No employer shall knowingly do any of the 650  
following: 651

(A) Discharge, fail to hire, or otherwise discriminate or 652  
retaliate against an individual or employee of the employer 653  
because the individual or employee is a victim or is perceived 654  
to be a victim of a violation of section 2917.211 of the Revised 655  
Code; 656

(B) Take an adverse employment action against an employee 657  
because the employee made a request for a reasonable 658  
accommodation based on the employee's status as a victim or 659  
perceived victim of a violation of section 2917.211 of the 660  
Revised Code, regardless of whether the employer granted the 661  
request for the accommodation; 662

(C) Discharge or otherwise discriminate or retaliate 663  
against an employee who uses unpaid leave in accordance with 664  
section 4113.86 of the Revised Code. 665

Sec. 4113.85. (A) An employer shall make a reasonable 666  
accommodation for an employee who is a victim or is perceived to 667  
be a victim of a violation of section 2917.211 of the Revised 668  
Code, unless the employer demonstrates that the accommodation 669  
would impose an undue hardship on the operation of the 670  
employer's business. 671

(B) Before making a reasonable accommodation under this 672  
section, an employer may require an employee who requests a 673  
reasonable accommodation to provide documentation of the 674  
violation or perceived violation of section 2917.211 of the 675  
Revised Code. The employee may satisfy the documentation 676  
requirement by providing the employer with any of the following: 677

(1) A copy of a police report or documentation of a court proceeding concerning the violation; 678  
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(2) A written statement verifying the violation signed by the employee's attorney, a victim services organization, or a trained victim advocate; 680  
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(3) A written statement verifying the violation signed by a member of the clergy from whom the employee has sought assistance in connection with the violation; 683  
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(4) Any other evidence that corroborates the violation. 686

(C) No employer shall knowingly violate division (A) of this section. An employer who fails or refuses to make a reasonable accommodation under this section has the burden of proving that the accommodation would impose an undue hardship on the operation of the employer's business. 687  
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(D) Except as provided in division (E) of this section, no employer shall knowingly fail to hold as confidential any information that the employer receives from an individual or employee under sections 4113.83 to 4113.87 of the Revised Code. If the employer is a public office, the information is not a public record for purposes of section 149.43 of the Revised Code. 692  
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(E) Division (D) of this section does not apply if either of the following is the case: 699  
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(1) The individual or employee gives written consent to allow the employer to share the information. 701  
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(2) The employer is otherwise required by the Revised Code or federal law to share the information. 703  
704

**Sec. 4113.86.** (A) An employer shall grant an employee of 705

the employer not less than five days per year of unpaid leave 706  
related to incidents in which the employee is a victim or is 707  
perceived to be a victim of a violation of section 2917.211 of 708  
the Revised Code. To be eligible for this leave, an employee 709  
shall satisfy both of the following requirements: 710

(1) Be employed by the employer for not less than twenty 711  
weeks in the calendar year in which the leave is requested; 712

(2) Be employed by the employer for more than twenty-five 713  
hours per week for not less than one hundred eighty days 714  
immediately preceding the period of leave. 715

(B) An employee who is a victim or is perceived to be a 716  
victim of a violation of section 2917.211 of the Revised Code 717  
may take the unpaid leave described in division (A) of this 718  
section to do any of the following: 719

(1) Seek nonemergency medical attention related to the 720  
violation for the employee or employee's dependent, including 721  
services from a victim services organization, psychological 722  
treatment, and counseling; 723

(2) Meet with law enforcement officers regarding the 724  
violation; 725

(3) Seek legal assistance or other assistance from a 726  
counselor, social worker, trained victim advocate, health care 727  
provider, or other professional who assists persons in dealing 728  
with such a violation for the employee or the employee's 729  
dependent; 730

(4) Attend a civil or criminal court proceeding related to 731  
the violation. 732

(C) The leave provided under this section is in addition 733

to any other paid or unpaid leave an employer grants an 734  
employee. 735

(D) No employer shall knowingly fail to grant the leave 736  
provided under this section. 737

**Sec. 4113.87.** (A) An individual or employee of an employer 738  
who believes that an employer violated section 4113.84, 4113.85, 739  
or 4113.86 of the Revised Code may commence a civil action 740  
against the employer in a court of competent jurisdiction. 741

(B) A court that finds that an employer violated section 742  
4113.84, 4113.85, or 4113.86 of the Revised Code may award the 743  
individual or employee compensatory and punitive damages, 744  
reasonable attorney's fees, and costs of bringing the civil 745  
action. The court also may reinstate an employee who was 746  
discharged in violation of section 4113.84 of the Revised Code. 747

**Section 2.** That existing sections 2907.01, 2907.31, 748  
2981.02, and 2981.04 of the Revised Code are hereby repealed. 749