

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 347**

**Representatives McColley, Brinkman**

**Cosponsors: Representatives Antani, Becker, Brenner, Dever, Duffey, Hambley,  
Henne, Hood, LaTourette, Retherford, Roegner, Schuring, Terhar, Thompson,  
Vitale, Young, Zeltwanger**

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**A BILL**

To amend sections 2923.36, 2981.01, 2981.02, 1  
2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2  
2981.11, 2981.12, 2981.13, and 2981.14 and to 3  
repeal section 2981.05 of the Revised Code to 4  
eliminate civil asset forfeiture proceedings and 5  
to modify the law governing criminal asset 6  
forfeitures. 7

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

**Section 1.** That sections 2923.36, 2981.01, 2981.02, 8  
2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2981.11, 2981.12, 9  
2981.13, and 2981.14 of the Revised Code be amended to read as 10  
follows: 11

**Sec. 2923.36.** (A) Upon the institution of any criminal 12  
proceeding charging a violation of section 2923.32 of the 13  
Revised Code, the filing of any complaint, indictment, or 14  
information in juvenile court alleging a violation of that 15  
section as a delinquent act, or the institution of any civil 16  
proceeding under section 2923.34 ~~or 2981.05~~ of the Revised Code, 17

the state, at any time during the pendency of the proceeding, 18  
may file a corrupt activity lien notice with the county recorder 19  
of any county in which property subject to forfeiture may be 20  
located. No fee shall be required for filing the notice. The 21  
recorder immediately shall record the notice pursuant to section 22  
317.08 of the Revised Code. 23

(B) A corrupt activity lien notice shall be signed by the 24  
prosecuting attorney who files the lien. The notice shall set 25  
forth all of the following information: 26

(1) The name of the person against whom the proceeding has 27  
been brought. The prosecuting attorney may specify in the notice 28  
any aliases, names, or fictitious names under which the person 29  
may be known. The prosecuting attorney also may specify any 30  
corporation, partnership, or other entity in which the person 31  
has an interest subject to forfeiture under Chapter 2981. of the 32  
Revised Code and shall describe in the notice the person's 33  
interest in the corporation, partnership, or other entity. 34

(2) If known to the prosecuting attorney, the present 35  
residence and business addresses of the person or names set 36  
forth in the notice; 37

(3) A statement that a criminal or delinquency proceeding 38  
for a violation of section 2923.32 of the Revised Code or a 39  
civil proceeding under section 2923.34 ~~or 2981.05~~ of the Revised 40  
Code has been brought against the person named in the notice, 41  
the name of the county in which the proceeding has been brought, 42  
and the case number of the proceeding; 43

(4) A statement that the notice is being filed pursuant to 44  
this section; 45

(5) The name and address of the prosecuting attorney 46

filing the notice; 47

(6) A description of the real or personal property subject 48  
to the notice and of the interest in that property of the person 49  
named in the notice, to the extent the property and the interest 50  
of the person in it reasonably is known at the time the 51  
proceeding is instituted or at the time the notice is filed. 52

(C) A corrupt activity lien notice shall apply only to one 53  
person and, to the extent applicable, any aliases, fictitious 54  
names, or other names, including names of corporations, 55  
partnerships, or other entities, to the extent permitted in this 56  
section. A separate corrupt activity lien notice is required to 57  
be filed for any other person. 58

(D) Within seven days after the filing of each corrupt 59  
activity lien notice, the prosecuting attorney who files the 60  
notice shall furnish to the person named in the notice by 61  
certified mail, return receipt requested, to the last known 62  
business or residential address of the person, a copy of the 63  
recorded notice with a notation on it of any county in which the 64  
notice has been recorded. The failure of the prosecuting 65  
attorney to furnish a copy of the notice under this section 66  
shall not invalidate or otherwise affect the corrupt activity 67  
lien notice when the prosecuting attorney did not know and could 68  
not reasonably ascertain the address of the person entitled to 69  
notice. 70

After receipt of a copy of the notice under this division, 71  
the person named in the notice may petition the court to 72  
authorize the person to post a surety bond in lieu of the lien 73  
or to otherwise modify the lien as the interests of justice may 74  
require. The bond shall be in an amount equal to the value of 75  
the property reasonably known to be subject to the notice and 76

conditioned on the payment of any judgment and costs ordered in 77  
an action pursuant to Chapter 2981. of the Revised Code up to 78  
the value of the bond. 79

(E) From the date of filing of a corrupt activity lien 80  
notice, the notice creates a lien in favor of the state on any 81  
personal or real property or any beneficial interest in the 82  
property located in the county in which the notice is filed that 83  
then or subsequently is owned by the person named in the notice 84  
or under any of the names set forth in the notice. 85

The lien created in favor of the state is superior and 86  
prior to the interest of any other person in the personal or 87  
real property or beneficial interest in the property, if the 88  
interest is acquired subsequent to the filing of the notice. 89

~~(F) (1) Notwithstanding any law or rule to the contrary, in 90  
conjunction with any civil proceeding brought pursuant to 91  
section 2981.05 of the Revised Code, the prosecuting attorney 92  
may file in any county, without prior court order, a lis pendens 93  
pursuant to sections 2703.26 and 2703.27 of the Revised Code. In 94  
such a case, any person acquiring an interest in the subject 95  
property or beneficial interest in the property, if the property 96  
interest is acquired subsequent to the filing of the lis 97  
pendens, shall take the property or interest subject to the 98  
civil proceeding and any subsequent judgment. 99~~

~~(2) If a corrupt activity lien notice has been filed, the 100  
prosecuting attorney may name as a defendant in the lis pendens, 101  
in addition to the person named in the notice, any person 102  
acquiring an interest in the personal or real property or 103  
beneficial interest in the property subsequent to the filing of 104  
the notice. If a judgment of forfeiture is entered in the 105  
criminal or delinquency proceeding pursuant to section 2981.04 106~~

of the Revised Code in favor of the state, the interest of any 107  
person in the property that was acquired subsequent to the 108  
filing of the notice shall be subject to the notice and judgment 109  
of forfeiture. 110

(G) Upon a final judgment of forfeiture in favor of the 111  
state pursuant to Chapter 2981. of the Revised Code, title of 112  
the state to the forfeited property shall do either of the 113  
following: 114

(1) In the case of real property, or a beneficial interest 115  
in it, relate back to the date of filing of the corrupt activity 116  
lien notice in the county where the property or interest is 117  
located. ~~If no corrupt activity lien notice was filed, title of~~ 118  
~~the state relates back to the date of the filing of any lis~~ 119  
~~pendens under division (F) of this section in the records of the~~ 120  
~~county recorder of the county in which the real property or~~ 121  
~~beneficial interest is located.~~ If no corrupt activity lien 122  
notice or ~~lis pendens~~ was filed, title of the state relates back 123  
to the date of the recording of the final judgment of forfeiture 124  
in the records of the county recorder of the county in which the 125  
real property or beneficial interest is located. 126

(2) In the case of personal property or a beneficial 127  
interest in it, relate back to the date on which the property or 128  
interest was seized by the state, or the date of filing of a 129  
corrupt activity lien notice in the county in which the property 130  
or beneficial interest is located. If the property was not 131  
seized and no corrupt activity lien notice was filed, title of 132  
the state relates back to the date of the recording of the final 133  
judgment of forfeiture in the county in which the personal 134  
property or beneficial interest is located. 135

(H) If personal or real property, or a beneficial interest 136

in it, that is subject to forfeiture pursuant to section 2923.32 137  
of the Revised Code is conveyed, alienated, disposed of, or 138  
otherwise rendered unavailable for forfeiture after the filing 139  
of either a corrupt activity lien notice, ~~or~~ or a criminal or 140  
delinquency proceeding for a violation of section 2923.32 ~~or a~~ 141  
~~civil proceeding under section 2981.05~~ of the Revised Code, 142  
whichever is earlier, the state may bring an action in any court 143  
of common pleas against the person named in the corrupt activity 144  
lien notice or the defendant in the criminal, or delinquency, ~~or~~ 145  
~~civil~~ proceeding to recover the value of the property or 146  
interest. The court shall enter final judgment against the 147  
person named in the notice or the defendant for an amount equal 148  
to the value of the property or interest together with 149  
investigative costs and attorney's fees incurred by the state in 150  
the action. ~~If a civil proceeding is pending, an action pursuant~~ 151  
~~to this section shall be filed in the court in which the~~ 152  
~~proceeding is pending.~~ 153

(I) If personal or real property, or a beneficial interest 154  
in it, that is subject to forfeiture pursuant to Chapter 2981. 155  
of the Revised Code is alienated or otherwise transferred or 156  
disposed of after either the filing of a corrupt activity lien 157  
notice, ~~or~~ or the filing of a criminal or delinquency proceeding 158  
for a violation of section 2923.32 ~~or a civil proceeding under~~ 159  
~~section 2981.05~~ of the Revised Code, whichever is earlier, the 160  
transfer or disposal is fraudulent as to the state and the state 161  
shall have all the rights granted a creditor under Chapter 1336. 162  
of the Revised Code. 163

(J) No trustee, ~~who~~ who acquires actual knowledge that a 164  
corrupt activity lien notice, or a criminal or delinquency 165  
proceeding for a violation of section 2923.32 ~~or a civil~~ 166  
~~proceeding under section 2981.05~~ of the Revised Code has been 167

filed against any person for whom the trustee holds legal or 168  
record title to personal or real property, shall recklessly fail 169  
to furnish promptly to the prosecuting attorney all of the 170  
following: 171

(1) The name and address of the person, as known to the 172  
trustee; 173

(2) The name and address, as known to the trustee, of all 174  
other persons for whose benefit the trustee holds title to the 175  
property; 176

(3) If requested by the prosecuting attorney, a copy of 177  
the trust agreement or other instrument under which the trustee 178  
holds title to the property. 179

Any trustee who fails to comply with this division is 180  
guilty of failure to provide corrupt activity lien information, 181  
a misdemeanor of the first degree. 182

(K) If a trustee transfers title to personal or real 183  
property after a corrupt activity lien notice is filed against 184  
the property, the lien is filed in the county in which the 185  
property is located, and the lien names a person who holds a 186  
beneficial interest in the property, the trustee, if the trustee 187  
has actual notice of the notice, shall be liable to the state 188  
for the greater of the following: 189

(1) The proceeds received directly by the person named in 190  
the notice as a result of the transfer; 191

(2) The proceeds received by the trustee as a result of 192  
the transfer and distributed to the person named in the notice; 193

(3) The fair market value of the interest of the person 194  
named in the notice in the property transferred. 195

However, if the trustee transfers property for at least 196  
its fair market value and holds the proceeds that otherwise 197  
would be paid or distributed to the beneficiary, or at the 198  
direction of the beneficiary or the beneficiary's designee, the 199  
liability of the trustee shall not exceed the amount of the 200  
proceeds held by the trustee. 201

(L) The filing of a corrupt activity lien notice does not 202  
constitute a lien on the record title to personal or real 203  
property owned by the trustee, except to the extent the trustee 204  
is named in the notice. 205

The prosecuting attorney for the county may bring a civil 206  
action in any court of common pleas to recover from the trustee 207  
the amounts set forth in division (H) of this section. The 208  
county may recover investigative costs and attorney's fees 209  
incurred by the prosecuting attorney. 210

(M) (1) This section does not apply to any transfer by a 211  
trustee under a court order, unless the order is entered in an 212  
action between the trustee and the beneficiary. 213

(2) Unless the trustee has actual knowledge that a person 214  
owning a beneficial interest in the trust is named in a corrupt 215  
activity lien notice or otherwise is a defendant in a civil 216  
proceeding brought pursuant to section 2923.34 ~~or 2981.05~~ of the 217  
Revised Code, this section does not apply to either of the 218  
following: 219

(a) Any transfer by a trustee required under the terms of 220  
any trust agreement, if the agreement is a matter of public 221  
record before the filing of any corrupt activity lien notice; 222

(b) Any transfer by a trustee to all of the persons who 223  
own a beneficial interest in the trust. 224



(N) The filing of a corrupt activity lien notice does not 225  
affect the use to which personal or real property, or a 226  
beneficial interest in it, that is owned by the person named in 227  
the notice may be put or the right of the person to receive any 228  
proceeds resulting from the use and ownership, but not the sale, 229  
of the property, until a judgment of forfeiture is entered. 230

(O) The term of a corrupt activity lien notice is five 231  
years from the date the notice is filed, unless a renewal notice 232  
has been filed by the prosecuting attorney of the county in 233  
which the property or interest is located. The term of any 234  
renewal of a corrupt activity lien notice granted by the court 235  
is five years from the date of its filing. A corrupt activity 236  
lien notice may be renewed any number of times while a criminal 237  
or civil proceeding under section 2923.34, or 2981.04, ~~or~~ 238  
~~2981.05~~ of the Revised Code, or an appeal from either type of 239  
proceeding, is pending. 240

(P) The prosecuting attorney who files the corrupt 241  
activity lien notice may terminate, in whole or part, any 242  
corrupt activity lien notice or release any personal or real 243  
property or beneficial interest in the property upon any terms 244  
that the prosecuting attorney determines are appropriate. Any 245  
termination or release shall be filed by the prosecuting 246  
attorney with each county recorder with whom the notice was 247  
filed. No fee shall be imposed for the filing. 248

(Q) (1) If no civil proceeding has been brought by the 249  
prosecuting attorney pursuant to section 2923.34 of the Revised 250  
Code against the person named in the corrupt activity lien 251  
notice, the acquittal in a criminal or delinquency proceeding 252  
for a violation of section 2923.32 of the Revised Code of the 253  
person named in the notice or the dismissal of a criminal or 254

delinquency proceeding for such a violation against the person 255  
named in the notice terminates the notice. In such a case, the 256  
filing of the notice has no effect. 257

(2) If a civil proceeding has been brought pursuant to 258  
section 2923.34 ~~or 2981.05~~ of the Revised Code with respect to 259  
any property that is the subject of a corrupt activity lien 260  
notice and if the criminal or delinquency proceeding brought 261  
against the person named in the notice for a violation of 262  
section 2923.32 of the Revised Code has been dismissed or the 263  
person named in the notice has been acquitted in the criminal or 264  
delinquency proceeding for such a violation, the notice shall 265  
continue for the duration of the civil proceeding and any 266  
appeals from the civil proceeding, except that it shall not 267  
continue any longer than the term of the notice as determined 268  
pursuant to division (O) of this section. 269

~~(3) If no civil proceeding brought pursuant to section~~ 270  
~~2981.05 of the Revised Code then is pending against the~~ Any 271  
~~person named in a corrupt activity lien notice, any person so~~ 272  
~~named~~ may bring an action against the prosecuting attorney who 273  
filed the notice, in the county where it was filed, seeking a 274  
release of the property subject to the notice or termination of 275  
the notice. In such a case, the court of common pleas promptly 276  
shall set a date for hearing, which shall be not less than five 277  
nor more than ten days after the action is filed. The order and 278  
a copy of the complaint shall be served on the prosecuting 279  
attorney within three days after the action is filed. At the 280  
hearing, the court shall take evidence as to whether any 281  
personal or real property, or beneficial interest in it, that is 282  
owned by the person bringing the action is covered by the notice 283  
or otherwise is subject to forfeiture. If the person bringing 284  
the action shows by a preponderance of the evidence that the 285

notice does not apply to the person or that any personal or real 286  
property, or beneficial interest in it, that is owned by the 287  
person is not subject to forfeiture, the court shall enter a 288  
judgment terminating the notice or releasing the personal or 289  
real property or beneficial interest from the notice. 290

At a hearing, the court may release from the notice any 291  
property or beneficial interest upon the posting of security, by 292  
the person against whom the notice was filed, in an amount equal 293  
to the value of the property or beneficial interest owned by the 294  
person. 295

(4) The court promptly shall enter an order terminating a 296  
corrupt activity lien notice or releasing any personal or real 297  
property or beneficial interest in the property, if a sale of 298  
the property or beneficial interest is pending and the filing of 299  
the notice prevents the sale. However, the proceeds of the sale 300  
shall be deposited with the clerk of the court, subject to the 301  
further order of the court. 302

(R) Notwithstanding any provision of this section, any 303  
person who has perfected a security interest in personal or real 304  
property or a beneficial interest in the property for the 305  
payment of an enforceable debt or other similar obligation prior 306  
to the filing of a corrupt activity lien notice ~~or a lis pendens~~ 307  
in reference to the property or interest may foreclose on the 308  
property or interest as otherwise provided by law. The 309  
foreclosure, insofar as practical, shall be made so that it 310  
otherwise will not interfere with a forfeiture under Chapter 311  
2981. of the Revised Code. 312

**Sec. 2981.01.** (A) Forfeitures under this chapter shall be 313  
governed by all of the following purposes: 314

(1) To provide economic disincentives and remedies to	315
deter and offset the economic effect of offenses by seizing and	316
forfeiting contraband, proceeds, and certain instrumentalities;	317
(2) To ensure that seizures and forfeitures of	318
instrumentalities are proportionate to the offense committed;	319
(3) To protect third parties from wrongful forfeiture of	320
their property;	321
(4) To prioritize restitution for victims of offenses;	322
<u>(5) To prohibit the forfeiture of a person's property</u>	323
<u>unless the person has been convicted of an offense or</u>	324
<u>adjudicated a delinquent child for committing an act that would</u>	325
<u>be an offense if committed by an adult.</u>	326
(B) As used in this chapter:	327
(1) "Aircraft" has the same meaning as in section 4561.01	328
of the Revised Code.	329
(2) "Computers," "computer networks," "computer systems,"	330
"computer software," and "telecommunications device" have the	331
same meanings as in section 2913.01 of the Revised Code.	332
(3) "Financial institution" means a bank, credit union,	333
savings and loan association, or a licensee or registrant under	334
Chapter 1321. of the Revised Code.	335
(4) "Firearm" and "dangerous ordnance" have the same	336
meanings as in section 2923.11 of the Revised Code.	337
(5) "Innocent person" includes any bona fide purchaser of	338
property that is subject to forfeiture, including any person who	339
establishes a valid claim to or interest in the property in	340
accordance with section <del>2923.04</del> <u>2981.04</u> of the Revised Code, and	341

any victim of an alleged offense. 342

(6) "Instrumentality" means property otherwise lawful to 343  
possess that is used in or intended to be used in an offense. An 344  
"instrumentality" may include, but is not limited to, a firearm, 345  
a mobile instrumentality, a computer, a computer network, a 346  
computer system, computer software, a telecommunications device, 347  
money, and any other means of exchange. 348

(7) "Law enforcement agency" includes, but is not limited 349  
to, the state board of pharmacy, the enforcement division of the 350  
department of taxation, the Ohio casino control commission, and 351  
the office of the prosecutor. 352

(8) "Mobile instrumentality" means an instrumentality that 353  
is inherently mobile and used in the routine transport of 354  
persons. "Mobile instrumentality" includes, but is not limited 355  
to, any vehicle, any watercraft, and any aircraft. 356

(9) "Money" has the same meaning as in section 1301.201 of 357  
the Revised Code. 358

(10) "Offense" means any act or omission that could be 359  
charged as a criminal offense or a delinquent act, whether or 360  
not a formal criminal prosecution or delinquent child proceeding 361  
began at the time the forfeiture is initiated. Except as 362  
otherwise specified, an offense for which property may be 363  
forfeited includes any felony and any misdemeanor. The 364  
commission of an "offense" includes the commission of a 365  
delinquent act. 366

(11) "Proceeds" means both of the following: 367

(a) In cases involving unlawful goods, services, or 368  
activities, "proceeds" means any property derived directly or 369  
indirectly from an offense. "Proceeds" may include, but is not 370

limited to, money or any other means of exchange. "Proceeds" is 371  
not limited to the net gain or profit realized from the offense. 372

(b) In cases involving lawful goods or services that are 373  
sold or provided in an unlawful manner, "proceeds" means the 374  
amount of money or other means of exchange acquired through the 375  
illegal transactions resulting in the forfeiture, less the 376  
direct costs lawfully incurred in providing the goods or 377  
services. The lawful costs deduction does not include any part 378  
of the overhead expenses of, or income taxes paid by, the entity 379  
providing the goods or services. The alleged offender or 380  
delinquent child has the burden to prove that any costs are 381  
lawfully incurred. 382

(12) "Property" means "property" as defined in section 383  
2901.01 of the Revised Code and any benefit, privilege, claim, 384  
position, interest in an enterprise, or right derived, directly 385  
or indirectly, from the offense. 386

(13) "Property subject to forfeiture" includes contraband 387  
and proceeds and may include instrumentalities as provided in 388  
this chapter. 389

(14) "Prosecutor" has the same meaning as in section 390  
2935.01 of the Revised Code. When relevant, "prosecutor" also 391  
includes the attorney general. 392

(15) "Vehicle" has the same meaning as in section 4501.01 393  
of the Revised Code. 394

(16) "Watercraft" has the same meaning as in section 395  
1547.01 of the Revised Code. 396

(C) The penalties and procedures under Chapters 2923., 397  
2925., 2933., and 3772. of the Revised Code remain in effect to 398  
the extent that they do not conflict with this chapter. 399

**Sec. 2981.02.** (A) The following property is subject to 400  
forfeiture to the state or a political subdivision under ~~either~~ 401  
the criminal or delinquency process in section 2981.04 of the 402  
Revised Code ~~or the civil process in section 2981.05 of the~~ 403  
~~Revised Code:~~ 404

(1) Contraband involved in an offense; 405

(2) Proceeds derived from or acquired through the 406  
commission of an offense; 407

(3) An instrumentality that is used in or intended to be 408  
used in the commission or facilitation of any of the following 409  
offenses when the use or intended use, consistent with division 410  
(B) of this section, is sufficient to warrant forfeiture under 411  
this chapter: 412

(a) A felony; 413

(b) A misdemeanor, when forfeiture is specifically 414  
authorized by a section of the Revised Code or by a municipal 415  
ordinance that creates the offense ~~or sets forth its penalties;~~ 416

(c) An attempt to commit, complicity in committing, or a 417  
conspiracy to commit an offense of the type described in 418  
divisions (A) (3) (a) and (b) of this section. 419

(B) In determining whether an alleged instrumentality was 420  
used in or was intended to be used in the commission or 421  
facilitation of an offense or an attempt, complicity, or 422  
conspiracy to commit an offense in a manner sufficient to 423  
warrant its forfeiture, the trier of fact shall consider the 424  
following factors the trier of fact determines are relevant: 425

(1) Whether the offense could not have been committed or 426  
attempted but for the presence of the instrumentality; 427

(2) Whether the primary purpose in using the 428  
instrumentality was to commit or attempt to commit the offense; 429

(3) The extent to which the instrumentality furthered the 430  
commission of, or attempt to commit, the offense. 431

(C) This chapter does not apply to or limit forfeitures 432  
under Title XLV of the Revised Code, including forfeitures 433  
relating to section 2903.06 or 2903.08 of the Revised Code. 434

**Sec. 2981.03.** (A) (1) The state or political subdivision 435  
acquires provisional title to property subject to forfeiture 436  
under this chapter upon a person's commission of an offense 437  
giving rise to forfeiture, subject to third party claims and a 438  
final adjudication under section 2981.04 ~~or 2981.05~~ of the 439  
Revised Code. Provisional title authorizes the state or 440  
political subdivision to seize and hold the property, and to act 441  
to protect the property, under this section before any 442  
proceeding under this chapter. Title to the property vests with 443  
the state or political subdivision when the trier of fact 444  
renders a final forfeiture verdict or order under section 445  
2981.04 ~~or 2981.05~~ of the Revised Code, but that title is 446  
subject to third party claims adjudicated under those sections. 447

(2) ~~A-Except as otherwise provided in division (A) (3) of~~ 448  
this section, a law enforcement officer may seize property that 449  
the officer has probable cause to believe is property subject to 450  
forfeiture. If a law enforcement officer seizes property that is 451  
titled or registered under law, the officer or the law 452  
enforcement agency that employs the officer shall notify the 453  
property owner of the seizure. The agency shall give notice to 454  
the property owner at the owner's last known address as soon as 455  
practical after the seizure and may give the notice by certified 456  
mail or orally by any means, including telephone. If the officer 457



or agency is unable to provide the notice required by this 458  
division despite reasonable, good faith efforts, those efforts 459  
constitute fulfillment of the notice requirement. 460

(3) ~~In~~ If a civil forfeiture case under this chapter in 461  
~~which the state or political subdivision seeks to seize real~~ 462  
~~property, the property owner may request~~ the prosecutor shall 463  
file a motion in the appropriate court to request a hearing 464  
~~before the seizure, and in~~ shall notify the property owner of 465  
the motion. The court shall hold the hearing not sooner than 466  
fourteen days after the motion is filed. At the hearing, the 467  
court shall grant the motion if the state or political 468  
subdivision ~~shall show probable cause~~ demonstrates by a 469  
preponderance of the evidence that the real property is subject 470  
to forfeiture. 471

(4) A person aggrieved by an alleged unlawful seizure of 472  
property may seek relief from the seizure by filing a motion in 473  
the appropriate court that shows the person's interest in the 474  
property, states why the seizure was unlawful, and requests the 475  
property's return. If the motion is filed before an indictment, 476  
information, or a complaint seeking forfeiture of the property 477  
is filed, the court shall ~~promptly~~ schedule a hearing on the 478  
motion, ~~and at~~ not later than fourteen days after it is filed. 479  
At the hearing, the person ~~state or political subdivision~~ shall 480  
demonstrate by a preponderance of the evidence that the seizure 481  
was ~~unlawful~~ lawful and that the person is not entitled to the 482  
property. If the motion is filed by a defendant after an 483  
indictment, information, or a complaint seeking forfeiture of 484  
the property has been filed, the court shall treat the motion as 485  
a motion to suppress evidence. If the motion is filed by a third 486  
party after an indictment, information, or complaint seeking 487  
forfeiture of the property has been filed, the court shall treat 488

the motion as a petition of a person with an alleged interest in 489  
the subject property, pursuant to divisions (E) and (F) of 490  
section 2981.04 of the Revised Code. 491

(5) (a) In any action under section 2981.04 ~~or 2981.05~~ of 492  
the Revised Code, if a property owner or third party claims 493  
lawful interest in the subject property alleged to be proceeds, 494  
the state or political subdivision has provisional title and a 495  
right to hold property if it proves both of the following by a 496  
preponderance of the evidence: 497

(i) The interest in the property was acquired by the 498  
alleged offender or delinquent child during the commission of 499  
the offense or within a reasonable time after that period. 500

(ii) There is no likely source for the interest in the 501  
property other than as proceeds derived from or acquired through 502  
the commission of the offense. 503

(b) The alleged offender or delinquent child shall have 504  
the burden to prove the amount of any direct costs lawfully 505  
incurred. 506

(B) (1) Upon application by the prosecutor who prosecutes 507  
or brings an action that allows forfeiture under this chapter, 508  
the court in which the action is prosecuted or filed may issue 509  
an order taking any reasonable action necessary to preserve the 510  
reachability of the property including, but not limited to, a 511  
restraining order or injunction, an order requiring execution of 512  
a satisfactory bond or insurance policy, an order to inspect, 513  
photograph, or inventory the property, an order placing a lien 514  
or lis pendens against the property, or an order appointing a 515  
receiver or trustee. The court may issue an order of this nature 516  
at any of the following times: 517

(a) Upon the filing of a complaint, indictment, or 518  
information alleging the property to be subject to forfeiture 519  
under section 2981.02 of the Revised Code; 520

(b) Prior to the filing of a complaint, an indictment, or 521  
information alleging the property to be subject to forfeiture 522  
under section 2981.02 of the Revised Code, if, after giving 523  
notice to all persons known to have ~~a~~ an interest in the 524  
property and giving those persons an opportunity to be heard, 525  
the court determines that all of the following apply: 526

(i) There is a substantial probability the state or 527  
political subdivision will prevail on the forfeiture issue. 528

(ii) There is a substantial probability that failure to 529  
enter the order will result in the property being destroyed, 530  
being removed from the court's jurisdiction, or otherwise being 531  
made unavailable for forfeiture. 532

(iii) The need to preserve the availability of the 533  
property outweighs the hardship on the person against whom the 534  
order is to be entered. 535

(c) As a condition of releasing the property based on a 536  
determination of substantial hardship under division (D) of this 537  
section. 538

(2) Except as otherwise provided in division (B) (3) of 539  
this section, the court shall make an order under division (B) 540  
(1) (b) of this section effective for not more than ninety days, 541  
but the court may extend the order if the prosecutor 542  
demonstrates that the need to preserve the reachability of the 543  
property still exists or for other good cause shown and shall 544  
extend the order if an indictment, information, or a complaint 545  
is filed alleging that the property is subject to forfeiture. 546

(3) A court may issue an order under division (B) (1) of 547  
this section without giving notice or a hearing to a person 548  
known to have a interest in the property if the prosecutor 549  
demonstrates that the property is subject to forfeiture and that 550  
giving notice and a hearing will jeopardize the availability of 551  
the property for forfeiture. Notwithstanding the ninety-day 552  
limit described in division (B) (2) of this section, the court 553  
shall make an order under division (B) (3) of this section 554  
effective for not more than ten days, but the court may extend 555  
the order if the prosecutor again demonstrates that the property 556  
is subject to forfeiture and that a hearing will jeopardize the 557  
availability of the property or for other good cause shown or if 558  
the person subject to the order consents to a longer period. If 559  
a party requests a hearing on the order, the court shall hold 560  
the hearing at the earliest possible time before the order 561  
expires. 562

(4) At any hearing under division (B) of this section, the 563  
court may receive and consider evidence and information that is 564  
inadmissible under the Rules of Evidence. The court shall cause 565  
the hearing to be recorded and shall cause a transcript to be 566  
made. If property is to be seized as a result of the hearing, 567  
the recording and transcript shall not be a public record for 568  
purposes of section 149.43 of the Revised Code until the 569  
property is seized. This section does not authorize making 570  
available for inspection any confidential law enforcement 571  
investigatory record or trial preparation record, as defined in 572  
section 149.43 of the Revised Code. 573

(C) Except as otherwise provided in division (E) of this 574  
section, any replevin, conversion, or other civil action brought 575  
concerning property subject to a criminal ~~or civil~~ forfeiture 576  
action under this chapter shall be stayed until the forfeiture 577

action is resolved. 578

(D) (1) A person with an interest in property that is 579  
subject to forfeiture and that is seized under this chapter may 580  
seek conditional release of the property by requesting 581  
possession from the person with custody of the property. The 582  
request shall demonstrate how the person meets the requirements 583  
specified in divisions (D) (3) (a), (b), and (c) of this section. 584

(2) If the person with custody of the property does not 585  
release the property within fifteen days after a person makes a 586  
request under division (D) (1) of this section, or within seven 587  
days after a person makes the request if the property was seized 588  
as a mobile instrumentality or if the request is to copy 589  
records, the person who made the request may file a petition for 590  
conditional release with the court in which the complaint, 591  
indictment, or information is filed or, if no complaint, 592  
indictment, or information is filed, the court that issued the 593  
seizure warrant for the property. The petition shall demonstrate 594  
how the person meets the requirements specified in divisions (D) 595  
(3) (a), (b), and (c) of this section and the steps the person 596  
has taken to secure release of the property from the official. 597  
Unless extended for good cause shown, the petition shall be 598  
filed either within thirty days of the filing of a complaint, an 599  
indictment, or information in the forfeiture action or, if no 600  
complaint, indictment, or information is filed, within thirty 601  
days of the issuance of the seizure warrant of the property. 602

If the court finds that the person meets the criteria 603  
specified in divisions (D) (3) (a), (b), and (c) of this section, 604  
the court shall order the property's conditional return to the 605  
person pending completion of the forfeiture action. In issuing 606  
this order, the court shall notify the person of the 607

prohibitions against interfering with or diminishing property in 608  
section 2981.07 of the Revised Code and may make any order 609  
necessary to ensure that the value of the property is 610  
maintained. 611

If personal, business, or governmental records are seized, 612  
including those contained in computer files, a person may 613  
petition the court for a prompt opportunity to copy, at the 614  
person's expense, any records that are not contraband. The court 615  
may grant the petition if the person demonstrates how the person 616  
meets the requirements specified in divisions (D) (3) (a) and (c) 617  
of this section. The court shall order a competent person to 618  
supervise the copying. 619

(3) Except when there is probable cause that the property 620  
is contraband, property that must be held for a reasonable time 621  
as evidence related to an offense, or property that is likely to 622  
be used in additional offenses or except when the state or 623  
political subdivision meets the burden imposed under division 624  
(A) (5) of this section regarding alleged proceeds, a court may 625  
conditionally release property subject to forfeiture to a person 626  
who demonstrates all of the following: 627

(a) A possessory interest in the property; 628

(b) Sufficient ties to the community to provide assurance 629  
that the property will be available at the time of trial; 630

(c) That failure to conditionally release the property 631  
will cause a substantial hardship to the claimant. 632

(4) In determining whether a substantial hardship exists, 633  
the court shall weigh the claimant's likely hardship from the 634  
state's or political subdivision's continued possession of the 635  
property against the risk that the property will be destroyed, 636

damaged, lost, concealed, or transferred if returned to the 637  
claimant. The court shall consider in favor of release the 638  
possibility that withholding the property would prevent a 639  
legitimate business from functioning, prevent the claimant's or 640  
an innocent person from maintaining employment, or leave the 641  
claimant or an innocent person homeless. 642

(5) If the state or political subdivision shows that the 643  
claimant's petition is frivolous, the court shall deny the 644  
petition. Otherwise, the state or political subdivision may 645  
respond to the petition by submitting evidence ex parte to avoid 646  
disclosing any matter that may adversely affect an ongoing 647  
criminal investigation or pending trial. 648

(6) The court shall decide on the petition not more than 649  
~~thirty-fourteen~~ days after it is filed. If the property seized 650  
is alleged to be a mobile instrumentality, the court shall 651  
decide on the petition ~~as soon as practicable within the thirty-~~ 652  
~~day period~~ not more than seven days after it is filed. If 653  
personal, business, or governmental records were seized and a 654  
person files a petition to copy the records, the court shall 655  
decide on the petition as soon as practicable, but not later 656  
than thirty days after it is filed. In any case, the court may 657  
extend the time for deciding on the petition by consent of the 658  
parties ~~or for good cause shown.~~ In any case, the court may 659  
extend the time for deciding on the petition up to thirty days 660  
for good cause shown. 661

(E) Nothing in this section precludes a financial 662  
institution that has or purports to have a security interest in 663  
or lien on property described in section 2981.02 of the Revised 664  
Code from filing an action in connection with the property, 665  
prior to its disposition under this chapter, to obtain 666

possession of the property in order to foreclose or otherwise 667  
enforce the security interest or lien. 668

If a financial institution commences a civil action or 669  
takes any other appropriate legal action to sell the property 670  
prior to its seizure or prior to its disposition under this 671  
chapter, if the person who is responsible for conducting the 672  
sale has actual knowledge of the commencement of a forfeiture 673  
action under ~~either~~ section 2981.04 ~~or 2981.05~~ of the Revised 674  
Code, and if the property is sold, then the person shall dispose 675  
of the proceeds of the sale in the following order: 676

(1) First, to the payment of the costs of the sale, 677  
excluding any associated attorney's fees, and to the payment of 678  
the costs incurred by law enforcement agencies and financial 679  
institutions in connection with the seizure, storage, and 680  
maintenance of, and provision of security for, the property; 681

(2) Second, in the order of priority of the security 682  
interests and liens, to the payment of valid security interests 683  
and liens pertaining to the property that, at the time at which 684  
the state or political subdivision gains provisional title, are 685  
held by known secured parties and lienholders; 686

(3) Third, to the court that has or would have 687  
jurisdiction in a case or proceeding under section 2981.04 ~~or~~ 688  
~~section 2981.05~~ of the Revised Code for disposition under this 689  
chapter. 690

~~(F) A prosecutor may file a forfeiture action under 691  
section 2981.04 or 2981.05 of the Revised Code, or both. If 692  
property is seized pursuant to this section and a criminal 693  
forfeiture has not begun under section 2981.04 of the Revised 694  
Code, the prosecutor of the county in which the seizure occurred 695~~



~~shall commence a civil action to forfeit that property under section 2981.05 of the Revised Code.~~ 696  
697

~~If the property seized includes property alleged to be a mobile instrumentality or includes personal, business, or governmental records, the civil forfeiture action shall be brought within thirty days of seizure. Otherwise, the action shall be brought within sixty days of seizure. In either case, the period within which the action shall be brought may be extended by agreement of the parties or by the court for good cause shown.~~ 698  
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~~A prosecutor may file an appropriate charging instrument under section 2981.04 of the Revised Code to seek a criminal forfeiture after a civil forfeiture action begins. Filing a charging instrument for an offense that is also the basis of a civil forfeiture action shall stay the civil action.~~ 706  
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~~A civil action to obtain civil forfeiture may be commenced as described in section 2981.05 of the Revised Code regardless of whether the offender or delinquent child has pleaded guilty to, been convicted of, or been adjudicated a delinquent child for the act that is the basis of the order.~~ 711  
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~~(G)~~The prosecutor shall maintain an accurate record of each item disposed of under section 2981.04 ~~or 2981.05~~ of the Revised Code. The record shall not identify or enable the identification of the officer who seized the property. The record is a public record open for inspection under section 149.43 of the Revised Code. 716  
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**Sec. 2981.04.** (A) (1) Property described in division (A) of section 2981.02 of the Revised Code may be forfeited under this section only if the defendant is convicted of an offense or the 722  
723  
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juvenile is adjudicated a delinquent child for committing an act 725  
that would be an offense if committed by an adult and the 726  
complaint, indictment, or information charging the offense or 727  
municipal violation, or the complaint charging the delinquent 728  
act, contains a specification of the type described in section 729  
2941.1417 of the Revised Code that sets forth all of the 730  
following to the extent it is reasonably known at the time of 731  
the filing: 732

(a) The nature and extent of the alleged offender's or 733  
delinquent child's interest in the property; 734

(b) A description of the property; 735

(c) If the property is alleged to be an instrumentality, 736  
the alleged use or intended use of the property in the 737  
commission or facilitation of the offense. 738

(2) If any property is not reasonably foreseen to be 739  
subject to forfeiture at the time of filing the indictment, 740  
information, or complaint, the trier of fact still may return a 741  
verdict of forfeiture concerning that property in the hearing 742  
described in division (B) of this section if the prosecutor, 743  
upon discovering the property to be subject to forfeiture, gave 744  
prompt notice of this fact to the alleged offender or delinquent 745  
child under Criminal Rule 7(E) or Juvenile Rule 10(B). 746

~~(3) For good cause shown, the court may consider issues of~~ 747  
~~the guilt of the alleged offender or the delinquency of the~~ 748  
~~alleged delinquent child separate from whether property~~ 749  
~~specified as subject to forfeiture should be forfeited.~~ 750

(B) If a person pleads guilty to or is convicted of an 751  
offense or is adjudicated a delinquent child for committing a 752  
delinquent act and the complaint, indictment, or information 753

charging the offense or act contains a specification covering 754  
property subject to forfeiture under section 2981.02 of the 755  
Revised Code, the trier of fact shall determine whether the 756  
person's property shall be forfeited. If the state or political 757  
subdivision proves by a ~~preponderance of the~~ clear and 758  
convincing evidence that the property is in whole or part 759  
subject to forfeiture under section 2981.02 of the Revised Code, 760  
after a proportionality review under section 2981.09 of the 761  
Revised Code when relevant, the trier of fact shall return a 762  
verdict of forfeiture that specifically describes the extent of 763  
the property subject to forfeiture. If the trier of fact is a 764  
jury, on the offender's or delinquent child's motion, the court 765  
shall make the determination of whether the property shall be 766  
forfeited. 767

(C) If the court enters a verdict of forfeiture under this 768  
section, the court imposing sentence or disposition, in addition 769  
to any other sentence authorized by Chapter 2929. of the Revised 770  
Code or any disposition authorized by Chapter 2152. of the 771  
Revised Code, shall order that the offender or delinquent child 772  
forfeit to the state or political subdivision the offender's or 773  
delinquent child's interest in the property. The property vests 774  
with the state or political subdivision subject to the claims of 775  
third parties. The court may issue any additional order to 776  
affect the forfeiture, including, but not limited to, an order 777  
under section 2981.06 of the Revised Code. 778

(D) After the entry of a forfeiture order under this 779  
section, the prosecutor shall attempt to identify any person 780  
with an interest in the property subject to forfeiture by 781  
searching appropriate public records and making reasonably 782  
diligent inquiries. The prosecutor shall give notice of the 783  
forfeiture that remains subject to the claims of third parties 784

and proposed disposal of the forfeited property to any person 785  
known to have an interest in the property. The prosecutor also 786  
shall publish notice of the forfeiture that remains subject to 787  
the claims of third parties and proposed disposal of the 788  
forfeited property once each week for two consecutive weeks in a 789  
newspaper of general circulation in the county in which the 790  
property was seized. 791

(E) (1) Any person, other than the offender or delinquent 792  
child whose conviction or plea of guilty or delinquency 793  
adjudication is the basis of the forfeiture order, who asserts a 794  
legal interest in the property that is the subject of the order 795  
may petition the court that issued the order for a hearing under 796  
division (E) (3) of this section to adjudicate the validity of 797  
the person's alleged interest in the property. All of the 798  
following apply to the petition: 799

(a) It shall be filed within thirty days after the final 800  
publication of notice or the person's receipt of notice under 801  
division (D) of this section. 802

(b) It shall be signed by the petitioner under the 803  
penalties for falsification specified in section 2921.13 of the 804  
Revised Code. 805

(c) It shall describe the nature and extent of the 806  
petitioner's interest in the property, the time and 807  
circumstances of the petitioner's acquisition of that interest, 808  
any additional facts supporting the petitioner's claim, and the 809  
relief sought. 810

(d) It shall state that one of the following conditions 811  
applies to the petitioner: 812

(i) The petitioner has a legal interest in the property 813

that is subject to the forfeiture order that renders the order 814  
completely or partially invalid because the legal interest in 815  
the property was vested in the petitioner, rather than the 816  
offender or delinquent child whose conviction or plea of guilty 817  
or delinquency adjudication is the basis of the order, or was 818  
superior to any interest of that offender or delinquent child, 819  
at the time of the commission of the offense or delinquent act 820  
that is the basis of the order. 821

(ii) The petitioner is a bona fide purchaser for value of 822  
the interest in the property that is subject to the forfeiture 823  
order and was, at the time of the purchase, reasonably without 824  
cause to believe that it was subject to forfeiture. 825

(2) (a) In lieu of filing a petition as described in 826  
division (E) (1) of this section, a person, other than the 827  
offender or delinquent child whose conviction or plea of guilty 828  
or delinquency adjudication is the basis of the forfeiture 829  
order, may file an affidavit as described in this division to 830  
establish the validity of the alleged right, title, or interest 831  
in the property that is the subject of the forfeiture order if 832  
the person is a secured party or other lienholder of record that 833  
asserts a legal interest in the property, including, but not 834  
limited to, a mortgage, security interest, or other type of 835  
lien. The affidavit shall contain averments that the secured 836  
party or other lienholder acquired its alleged right, title, or 837  
interest in the property in the regular course of its business, 838  
for a specified valuable consideration, without actual knowledge 839  
of any facts pertaining to the offense that was the basis of the 840  
forfeiture order, in good faith, and without the intent to 841  
prevent or otherwise impede the state or political subdivision 842  
from seizing or obtaining a forfeiture of the property. The 843  
person shall file the affidavit within thirty days after the 844

earlier of the final publication of notice or the receipt of 845  
notice under division (D) of this section. 846

(b) Except as otherwise provided in this section, the 847  
affidavit shall constitute prima-facie evidence of the validity 848  
of the affiant's alleged interest in the property. 849

(c) Unless the prosecutor files a motion challenging the 850  
affidavit within ten days after its filing and unless the 851  
prosecutor establishes by a ~~preponderance of the~~ clear and 852  
convincing evidence at the hearing held under division (E) (3) of 853  
this section that the affiant does not possess the alleged 854  
interest in the property or that the affiant had actual 855  
knowledge of facts pertaining to the offense or delinquent act 856  
that was the basis of the forfeiture order, the affidavit shall 857  
constitute conclusive evidence of the validity of the affiant's 858  
interest in the property. 859

(d) Any subsequent purchaser or other transferee of 860  
property pursuant to forfeiture under this section shall take 861  
the property subject to the continued validity of the interest 862  
of the affiant. 863

(3) Upon receipt of a petition or affidavit filed under 864  
division (E) (1) or (2) of this section, the court shall hold a 865  
hearing to determine the validity of the petitioner's interest 866  
in the property that is the subject of the forfeiture order or, 867  
if the affidavit was challenged, to determine the validity of 868  
the affiant's interest in the property. To the extent 869  
practicable and consistent with the interests of justice, the 870  
court shall hold the hearing within thirty days after the filing 871  
of the petition or within thirty days after the prosecutor files 872  
the motion challenging the affidavit. The court may consolidate 873  
the hearing with a hearing on any other petition or affidavit 874

that is filed by a person other than the offender or delinquent 875  
child whose conviction or plea of guilty or delinquency 876  
adjudication is the basis of the forfeiture order and that 877  
relates to the property that is the subject of the forfeiture 878  
order. 879

At the hearing, the petitioner or affiant may testify, 880  
present evidence and witnesses on the petitioner's or affiant's 881  
behalf, and cross-examine witnesses for the state or political 882  
subdivision. In regards to a petition, the state or political 883  
subdivision may present evidence and witnesses in rebuttal and 884  
in defense of its claim to the property and may cross-examine 885  
witnesses for the petitioner. In regards to an affidavit, the 886  
prosecutor may present evidence and witnesses and cross-examine 887  
witnesses for the affiant. 888

In addition to the evidence and testimony presented at the 889  
hearing, the court also shall consider the relevant portions of 890  
the record in the criminal or delinquent child case that 891  
resulted in the forfeiture order. 892

(F) (1) If the hearing involves a petition, the court shall 893  
amend its forfeiture order if in favor of the petitioner unless 894  
it determines at the hearing held pursuant to division (E) (3) of 895  
this section that the petitioner prosecutor has established 896  
either of the following by a preponderance of the clear and 897  
convincing evidence: 898

~~(a) The petitioner has a legal interest in the property 899  
that is subject to the forfeiture order that renders the order 900  
completely or partially invalid because the legal interest in 901  
the property was vested in the petitioner, rather than the 902  
offender or delinquent child whose conviction or plea of guilty 903  
or delinquency adjudication is the basis of the order, or was 904~~

~~superior to any interest of that offender or delinquent child,~~ 905  
~~at the time of the commission of the offense or delinquent act~~ 906  
~~that is the basis of the order.~~ 907

~~(b) The petitioner is a bona fide purchaser for value of~~ 908  
~~the interest in the property that is subject to the forfeiture~~ 909  
~~order and was, at the time of the purchase, reasonably without~~ 910  
~~cause to believe that it was subject that the applicable~~ 911  
~~condition alleged by the petitioner under division (E) (1) (d) of~~ 912  
~~this section does not apply to forfeiturethe petitioner.~~ 913

(2) The court also shall amend its forfeiture order to 914  
reflect any interest of a secured party or other lienholder of 915  
record in the property subject to forfeiture who prevails at a 916  
hearing on the petition or affidavit filed pursuant to division 917  
(E) (1) or (2) of this section. 918

(G) If the court disposes of all petitions or affidavits 919  
timely filed under this section in favor of the state or 920  
political subdivision, the state or political subdivision shall 921  
have clear title to the property that is the subject of a 922  
forfeiture order issued under this section, but only to the 923  
extent that other parties' lawful interests in the property are 924  
not infringed. To the extent that the state or political 925  
subdivision has clear title to the property, the state or 926  
political subdivision may warrant good title to any subsequent 927  
purchaser or other transferee. 928

**Sec. 2981.06.** (A) Upon the entry of a forfeiture order 929  
under section 2981.04 ~~or 2981.05~~ of the Revised Code, if 930  
necessary, the court shall order an appropriate law enforcement 931  
officer to seize the forfeited property on conditions that the 932  
court considers proper. If necessary, the court shall order the 933  
person in possession of the property to deliver the property by 934



a specific date to the law enforcement agency involved in the 935  
initial seizure of the property. The court shall deliver the 936  
order by personal service or certified mail. 937

(B) With respect to property that is the subject of a 938  
forfeiture order issued under section 2981.04 ~~or 2981.05~~ of the 939  
Revised Code, the court that issued the order, upon petition of 940  
the prosecutor who prosecuted the underlying offense or act ~~or~~ 941  
~~brought the civil forfeiture action~~, may do any of the 942  
following: 943

(1) Enter any appropriate restraining orders or 944  
injunctions; require execution of satisfactory performance 945  
bonds; appoint receivers, conservators, appraisers, accountants, 946  
or trustees; or take any other action necessary to safeguard and 947  
maintain the forfeited property; 948

(2) Authorize the payment of rewards to persons who 949  
provide information resulting in forfeiture of the property 950  
under this chapter from funds provided under division (F) of 951  
section 2981.12 of the Revised Code; 952

(3) Authorize the prosecutor to settle claims; 953

(4) Restore forfeited property to victims and grant 954  
petitions for mitigation or remission of forfeiture; 955

(5) Authorize a stay of the forfeiture order pending 956  
appeal or resolution of any claim to the property if requested 957  
by a person other than the defendant or a person acting in 958  
concert with, or on behalf of, the defendant. 959

(C) To facilitate the identification and location of 960  
property that is the subject of a forfeiture order and to 961  
facilitate the disposition of petitions for remission or 962  
mitigation issued under this section, after the issuance of a 963

forfeiture order and upon application by the prosecutor, the 964  
court, consistent with the Civil Rules, may order that the 965  
testimony of any witness relating to the forfeited property be 966  
taken by deposition and that any designated material that is not 967  
privileged be produced at the same time and place as the 968  
testimony. 969

(D) ~~(1)~~ The court shall order forfeiture of any other 970  
property of the offender or delinquent child up to the value of 971  
the unreachable property if the state or political subdivision 972  
demonstrates by clear and convincing evidence that any of the 973  
following describe any property subject to a forfeiture order 974  
under section ~~2981.04 or 2981.05~~ of the Revised Code: 975

~~(1)~~ ~~(a)~~ It cannot be located through due diligence. 976

~~(2)~~ ~~It~~ ~~(b)~~ Subject to division (D) (2) of this section, it 977  
has been transferred, sold, or deposited with a third party. 978

~~(3)~~ ~~(c)~~ It has been placed beyond the jurisdiction of the 979  
court. 980

~~(4)~~ ~~(d)~~ It has been substantially diminished in value or 981  
has been commingled with other property and cannot be divided 982  
without difficulty or undue injury to innocent persons. 983

(2) If property that is subject to a forfeiture order 984  
under section 2981.04 of the Revised Code has been transferred, 985  
sold, or deposited with a third party, the court shall order 986  
forfeiture of the transferred, sold, or deposited property 987  
instead of ordering the forfeiture of other property under 988  
division (D) (1) of this section if the state or political 989  
subdivision demonstrates by clear and convincing evidence that 990  
the transferred, sold, or deposited property was transferred, 991  
sold, or deposited in violation of section 2981.07 of the 992

<u>Revised Code.</u>	993
<u>(3) The requirements of divisions (D), (E), and (F) of</u>	994
<u>section 2981.04 of the Revised Code apply to property forfeited</u>	995
<u>under division (D)(1) or (2) of this section.</u>	996
(E) After the state or political subdivision is granted	997
clear title under section 2981.04 <del>or 2981.05</del> of the Revised	998
Code, the prosecutor shall direct disposition of the property	999
pursuant to this chapter, making due provisions for the rights	1000
of innocent persons.	1001
(F) Any interest in property not exercisable by, or	1002
transferable for value to, the state or political subdivision	1003
shall expire and shall not revert to the offender or delinquent	1004
child who forfeited the property. The offender or delinquent	1005
child is not eligible to purchase the property at a sale under	1006
this chapter.	1007
(G) Any income accruing to or derived from forfeited	1008
property may be used to offset ordinary and necessary expenses	1009
related to the property that are required by law or necessary to	1010
protect the interest of the state, political subdivision, or	1011
third parties.	1012
<b>Sec. 2981.08.</b> <del>Parties to</del> <u>The defendant in</u> a forfeiture	1013
action under this chapter <del>have</del> <u>has</u> a right to trial by jury <del>as</del>	1014
<del>follows:</del>	1015
<del>(A) In a criminal forfeiture action, the defendant has the</del>	1016
<del>right to trial by jury.</del>	1017
<del>(B) In a civil forfeiture action, the defendant, the state</del>	1018
<del>or political subdivision, and third party claimants have the</del>	1019
<del>right to trial by jury.</del>	1020

**Sec. 2981.09.** (A) Property may not be forfeited as an 1021  
instrumentality under this chapter to the extent that the amount 1022  
or value of the property is disproportionate to the severity of 1023  
the offense. The ~~owner of the property~~ state or political 1024  
subdivision shall have the burden of going forward with the 1025  
evidence and the burden to prove by a ~~preponderance of the clear~~ 1026  
and convincing evidence that the amount or value of the property 1027  
subject to forfeiture is ~~disproportionate~~ proportionate to the 1028  
severity of the offense. 1029

(B) Contraband and any proceeds obtained from the offense 1030  
are not subject to proportionality review under this section. 1031

(C) In determining the severity of the offense for 1032  
purposes of forfeiture of an instrumentality, the court shall 1033  
consider all relevant factors including, but not limited to, the 1034  
following: 1035

(1) The seriousness of the offense and its impact on the 1036  
community, including the duration of the activity and the harm 1037  
caused or intended by the person whose property is subject to 1038  
forfeiture; 1039

(2) The extent to which the person whose property is 1040  
subject to forfeiture participated in the offense; 1041

(3) Whether the offense was completed or attempted; 1042

(4) The extent to which the property was used in 1043  
committing the offense; 1044

(5) The sentence imposed for committing the offense that 1045  
is the basis of the forfeiture. 1046

(D) In determining the value of the property that is an 1047  
instrumentality and that is subject to forfeiture, the court 1048

shall consider relevant factors including, but not limited to, 1049  
the following: 1050

(1) The fair market value of the property; 1051

(2) The value of the property to the person whose property 1052  
is subject to forfeiture, including hardship to the person or to 1053  
innocent persons if the property were forfeited. 1054

**Sec. 2981.11.** (A) (1) Any property that has been lost, 1055  
abandoned, stolen, seized pursuant to a search warrant, or 1056  
otherwise lawfully seized or forfeited and that is in the 1057  
custody of a law enforcement agency shall be kept safely by the 1058  
agency, pending the time it no longer is needed as evidence or 1059  
for another lawful purpose, and shall be disposed of pursuant to 1060  
sections 2981.12 and 2981.13 of the Revised Code. 1061

(2) This chapter does not apply to the custody and 1062  
disposal of any of the following: 1063

(a) Vehicles subject to forfeiture under Title XLV of the 1064  
Revised Code, except as provided in division (A) (6) of section 1065  
2981.12 of the Revised Code; 1066

(b) Abandoned junk motor vehicles or other property of 1067  
negligible value; 1068

(c) Property held by a department of rehabilitation and 1069  
correction institution that is unclaimed, that does not have an 1070  
identified owner, that the owner agrees to dispose of, or that 1071  
is identified by the department as having little value; 1072

(d) Animals taken, and devices used in unlawfully taking 1073  
animals, under section 1531.20 of the Revised Code; 1074

(e) Controlled substances sold by a peace officer in the 1075  
performance of the officer's official duties under section 1076

3719.141 of the Revised Code;	1077
(f) Property recovered by a township law enforcement agency under sections 505.105 to 505.109 of the Revised Code;	1078 1079
(g) Property held and disposed of under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, except that a municipal corporation that has received notice of a citizens' reward program as provided in division (F) of section 2981.12 of the Revised Code and disposes of property under an ordinance shall pay twenty-five per cent of any moneys acquired from any sale or auction to the citizens' reward program.	1080 1081 1082 1083 1084 1085 1086 1087
(B) (1) Each law enforcement agency that has custody of any property that is subject to this section shall adopt and comply with a written internal control policy that does all of the following:	1088 1089 1090 1091
(a) Provides for keeping detailed records as to the amount of property acquired by the agency and the date property was acquired;	1092 1093 1094
(b) Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:	1095 1096 1097
(i) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.	1098 1099 1100 1101 1102
(ii) <del>The general types</del> <u>An itemized list of the specific</u> expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the	1103 1104 1105

specific amount expended on each ~~general type of~~ expenditure, 1106  
except that the policy shall not provide for or permit the 1107  
identification of any specific expenditure that is made in an 1108  
ongoing investigation. 1109

(c) Complies with section 2981.13 of the Revised Code if 1110  
the agency has a law enforcement trust fund or similar fund 1111  
created under that section. 1112

(2) The records kept under the internal control policy 1113  
shall be open to public inspection during the agency's regular 1114  
business hours. The policy adopted under this section is a 1115  
public record open for inspection under section 149.43 of the 1116  
Revised Code. 1117

(C) A law enforcement agency with custody of property to 1118  
be disposed of under section 2981.12 or 2981.13 of the Revised 1119  
Code shall make a reasonable effort to locate persons entitled 1120  
to possession of the property, to notify them of when and where 1121  
it may be claimed, and to return the property to them at the 1122  
earliest possible time. In the absence of evidence identifying 1123  
persons entitled to possession, it is sufficient notice to 1124  
advertise in a newspaper of general circulation in the county 1125  
and to briefly describe the nature of the property in custody 1126  
and inviting persons to view and establish their right to it. 1127

(D) As used in sections 2981.11 to 2981.13 of the Revised 1128  
Code: 1129

(1) "Citizens' reward program" has the same meaning as in 1130  
section 9.92 of the Revised Code. 1131

(2) "Law enforcement agency" includes correctional 1132  
institutions. 1133

(3) "Township law enforcement agency" means an organized 1134

police department of a township, a township police district, a joint police district, or the office of a township constable.

**Sec. 2981.12.** (A) Unclaimed or forfeited property in the custody of a law enforcement agency, other than property described in division (A)(2) of section 2981.11 of the Revised Code, shall be disposed of by order of any court of record that has territorial jurisdiction over the political subdivision that employs the law enforcement agency, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B) of this section. The agency may sell other firearms and dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The agency shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Chapters 4301. and 4303. of the Revised Code or otherwise forfeited to the state for an offense under section 4301.45 or 4301.53 of the Revised Code shall be sold by the division of liquor control if



the division determines that it is fit for sale or shall be 1164  
placed in the custody of the investigations unit in the 1165  
department of public safety and be used for training relating to 1166  
law enforcement activities. The department, with the assistance 1167  
of the division of liquor control, shall adopt rules in 1168  
accordance with Chapter 119. of the Revised Code to provide for 1169  
the distribution to state or local law enforcement agencies upon 1170  
their request. If any tax imposed under Title XLIII of the 1171  
Revised Code has not been paid in relation to the beer, 1172  
intoxicating liquor, or alcohol, any moneys acquired from the 1173  
sale shall first be used to pay the tax. All other money 1174  
collected under this division shall be paid into the state 1175  
treasury. Any beer, intoxicating liquor, or alcohol that the 1176  
division determines to be unfit for sale shall be destroyed. 1177

(5) Money received by an inmate of a correctional 1178  
institution from an unauthorized source or in an unauthorized 1179  
manner shall be returned to the sender, if known, or deposited 1180  
in the inmates' industrial and entertainment fund of the 1181  
institution if the sender is not known. 1182

(6) (a) Any mobile instrumentality forfeited under this 1183  
chapter may be given to the law enforcement agency that 1184  
initially seized the mobile instrumentality for use in 1185  
performing its duties, if the agency wants the mobile 1186  
instrumentality. The agency shall take the mobile 1187  
instrumentality subject to any security interest or lien on the 1188  
mobile instrumentality. 1189

(b) Vehicles and vehicle parts forfeited under sections 1190  
4549.61 to 4549.63 of the Revised Code may be given to a law 1191  
enforcement agency for use in performing its duties. Those parts 1192  
may be incorporated into any other official vehicle. Parts that 1193

do not bear vehicle identification numbers or derivatives of 1194  
them may be sold or disposed of as provided by rules of the 1195  
director of public safety. Parts from which a vehicle 1196  
identification number or derivative of it has been removed, 1197  
defaced, covered, altered, or destroyed and that are not 1198  
suitable for police work or incorporation into an official 1199  
vehicle shall be destroyed and sold as junk or scrap. 1200

(7) Computers, computer networks, computer systems, and 1201  
computer software suitable for police work may be given to a law 1202  
enforcement agency for that purpose or disposed of under 1203  
division (B) of this section. 1204

(8) Money seized in connection with a violation of section 1205  
2905.32, 2907.21, or 2907.22 of the Revised Code shall be 1206  
deposited in the victims of human trafficking fund created by 1207  
section 5101.87 of the Revised Code. 1208

(B) Unclaimed or forfeited property that is not described 1209  
in division (A) of this section or division (A)(2) of section 1210  
2981.11 of the Revised Code, with court approval, may be used by 1211  
the law enforcement agency in possession of it. If it is not 1212  
used by the agency, it may be sold without appraisal at a public 1213  
auction to the highest bidder for cash or disposed of in another 1214  
manner that the court considers proper. 1215

(C) Except as provided in divisions (A) and (F) of this 1216  
section and after compliance with division (D) of this section 1217  
~~when applicable~~, any moneys acquired from the sale of property 1218  
disposed of pursuant to this section shall be placed in the 1219  
general revenue fund of the state, or the general fund of the 1220  
county, the township, or the municipal corporation of which the 1221  
law enforcement agency involved is an agency. 1222

(D) If the property was in the possession of the law enforcement agency in relation to a criminal proceeding or a delinquent child proceeding in a juvenile court, ten per cent of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more community addiction services providers, as defined in section 5119.01 of the Revised Code. A ~~juvenile~~ court shall not specify a services provider, except as provided in this division, unless the services provider is in the same county as the court or in a contiguous county. If no services provider is located in any of those counties, the ~~juvenile~~ court may specify a services provider anywhere in Ohio. The remaining ninety per cent of the proceeds or cash shall be applied as provided in division (C) of this section.

Each services provider that receives in any calendar year forfeited money under this division shall file an annual report for that year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the services provider is located and of any other county from which the services provider received forfeited money. The services provider shall file the report on or before the first day of March in the calendar year following the calendar year in which the services provider received the money. The report shall include statistics on the number of persons the services provider served, identify the types of treatment services it provided to them, and include a specific accounting of the purposes for which it used the money so received. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the services provider.

(E) Each community addiction services provider that

receives in any calendar year money under this section or under 1254  
section 2981.13 of the Revised Code as the result of a ~~juvenile-~~ 1255  
forfeiture order shall file an annual report for that calendar 1256  
year with the attorney general and with the court of common 1257  
pleas and board of county commissioners of the county in which 1258  
the services provider is located and of any other county from 1259  
which the services provider received the money. The services 1260  
provider shall file the report on or before the first day of 1261  
March in the calendar year following the year in which the 1262  
services provider received the money. The report shall include 1263  
statistics on the number of persons served with the money, 1264  
identify the types of treatment services provided, and 1265  
specifically account for how the money was used. No information 1266  
in the report shall identify or enable a person to determine the 1267  
identity of anyone served by the services provider. 1268

As used in this division, "~~juvenile-related forfeiture~~ 1269  
order" means any forfeiture order issued by a ~~juvenile~~-court 1270  
under section 2981.04 ~~or 2981.05~~ of the Revised Code and any 1271  
disposal of property ordered by a court under section 2981.11 of 1272  
the Revised Code regarding property that was in the possession 1273  
of a law enforcement agency in relation to a criminal proceeding 1274  
or to a delinquent child proceeding in a juvenile court. 1275

(F) Each board of county commissioners that recognizes a 1276  
citizens' reward program under section 9.92 of the Revised Code 1277  
shall notify each law enforcement agency of that county and of a 1278  
township or municipal corporation wholly located in that county 1279  
of the recognition by filing a copy of its resolution conferring 1280  
that recognition with each of those agencies. When the board 1281  
recognizes a citizens' reward program and the county includes a 1282  
part, but not all, of the territory of a municipal corporation, 1283  
the board shall so notify the law enforcement agency of that 1284

municipal corporation of the recognition of the citizens' reward 1285  
program only if the county contains the highest percentage of 1286  
the municipal corporation's population. 1287

Upon being so notified, each law enforcement agency shall 1288  
pay twenty-five per cent of any forfeited proceeds or cash 1289  
derived from each sale of property disposed of pursuant to this 1290  
section to the citizens' reward program for use exclusively to 1291  
pay rewards. No part of the funds may be used to pay expenses 1292  
associated with the program. If a citizens' reward program that 1293  
operates in more than one county or in another state in addition 1294  
to this state receives funds under this section, the funds shall 1295  
be used to pay rewards only for tips and information to law 1296  
enforcement agencies concerning offenses committed in the county 1297  
from which the funds were received. 1298

Receiving funds under this section or section 2981.11 of 1299  
the Revised Code does not make the citizens' reward program a 1300  
governmental unit or public office for purposes of section 1301  
149.43 of the Revised Code. 1302

(G) Any property forfeited under this chapter shall not be 1303  
used to pay any fine imposed upon a person who is convicted of 1304  
or pleads guilty to an underlying criminal offense or a 1305  
different offense arising out of the same facts and 1306  
circumstances. 1307

(H) Any moneys acquired from the sale of personal effects, 1308  
tools, or other property seized because the personal effects, 1309  
tools, or other property were used in the commission of a 1310  
violation of section 2905.32, 2907.21, or 2907.22 of the Revised 1311  
Code or derived from the proceeds of the commission of a 1312  
violation of section 2905.32, 2907.21, or 2907.22 of the Revised 1313  
Code and disposed of pursuant to this section shall be placed in 1314

the victims of human trafficking fund created by section 5101.87 1315  
of the Revised Code. 1316

**Sec. 2981.13.** (A) Except as otherwise provided in this 1317  
section, property ordered forfeited as contraband, proceeds, or 1318  
an instrumentality pursuant to this chapter shall be disposed 1319  
of, used, or sold pursuant to section 2981.12 of the Revised 1320  
Code. If the property is to be sold under that section, the 1321  
prosecutor shall cause notice of the proposed sale to be given 1322  
in accordance with law. 1323

(B) If the contraband or instrumentality forfeited under 1324  
this chapter is sold, any moneys acquired from a sale and any 1325  
proceeds forfeited under this chapter shall be applied in the 1326  
following order: 1327

(1) First, to pay costs incurred in the seizure, storage, 1328  
maintenance, security, and sale of the property and in the 1329  
forfeiture proceeding; 1330

(2) Second, ~~in a criminal forfeiture case,~~ to satisfy any 1331  
restitution ordered to the victim of the offense ~~or, in a civil~~ 1332  
~~forfeiture case, to satisfy any recovery ordered for the person~~ 1333  
~~harmed,~~ unless paid from other assets; 1334

(3) Third, to pay the balance due on any security interest 1335  
preserved under this chapter; 1336

(4) Fourth, apply the remaining amounts as follows: 1337

(a) ~~If the forfeiture was ordered by a juvenile court, ten-~~ 1338  
Ten per cent to one or more community addiction services 1339  
providers as specified in division (D) of section 2981.12 of the 1340  
Revised Code; 1341

(b) ~~If the forfeiture was ordered in a juvenile court,~~ 1342

~~ninety~~ Ninety per cent, ~~and if the forfeiture was ordered in a~~ 1343  
~~court other than a juvenile court, one hundred per cent~~ to the 1344  
law enforcement trust fund of the prosecutor and to the 1345  
following fund supporting the law enforcement agency that 1346  
substantially conducted the investigation: 1347

(i) The law enforcement trust fund of the county sheriff, 1348  
municipal corporation, township, or park district created under 1349  
section 511.18 or 1545.01 of the Revised Code; 1350

(ii) The state highway patrol contraband, forfeiture, and 1351  
other fund; 1352

(iii) The department of public safety investigative unit 1353  
contraband, forfeiture, and other fund; 1354

(iv) The department of taxation enforcement fund; 1355

(v) The board of pharmacy drug law enforcement fund 1356  
created by division (B) (1) of section 4729.65 of the Revised 1357  
Code; 1358

(vi) The medicaid fraud investigation and prosecution 1359  
fund; 1360

(vii) The casino control commission enforcement fund 1361  
created by section 3772.36 of the Revised Code; 1362

(viii) The auditor of state investigation and forfeiture 1363  
trust fund established under section 117.54 of the Revised Code; 1364

(ix) The treasurer of state for deposit into the peace 1365  
officer training commission fund if any other state law 1366  
enforcement agency substantially conducted the investigation. 1367

In the case of property forfeited for medicaid fraud, any 1368  
remaining amount shall be used by the attorney general to 1369

investigate and prosecute medicaid fraud offenses. 1370

If the prosecutor declines to accept any of the remaining 1371  
amounts, the amounts shall be applied to the fund of the agency 1372  
that substantially conducted the investigation. 1373

(c) If more than one law enforcement agency is 1374  
substantially involved in the seizure of property forfeited 1375  
under this chapter, the court ordering the forfeiture shall 1376  
equitably divide the amounts, after calculating any distribution 1377  
to the law enforcement trust fund of the prosecutor pursuant to 1378  
division (B) (4) of this section, among the entities that the 1379  
court determines were substantially involved in the seizure. 1380

(C) (1) A law enforcement trust fund shall be established 1381  
by the prosecutor of each county who intends to receive any 1382  
remaining amounts pursuant to this section, by the sheriff of 1383  
each county, by the legislative authority of each municipal 1384  
corporation, by the board of township trustees of each township 1385  
that has a township police department, township or joint police 1386  
district police force, or office of the constable, and by the 1387  
board of park commissioners of each park district created 1388  
pursuant to section 511.18 or 1545.01 of the Revised Code that 1389  
has a park district police force or law enforcement department, 1390  
for the purposes of this section. 1391

There is hereby created in the state treasury the state 1392  
highway patrol contraband, forfeiture, and other fund, the 1393  
department of public safety investigative unit contraband, 1394  
forfeiture, and other fund, the medicaid fraud investigation and 1395  
prosecution fund, the department of taxation enforcement fund, 1396  
and the peace officer training commission fund, for the purposes 1397  
of this section. 1398



Amounts distributed to any municipal corporation, 1399  
township, or park district law enforcement trust fund shall be 1400  
allocated from the fund by the legislative authority only to the 1401  
police department of the municipal corporation, by the board of 1402  
township trustees only to the township police department, 1403  
township police district police force, or office of the 1404  
constable, by the joint police district board only to the joint 1405  
police district, and by the board of park commissioners only to 1406  
the park district police force or law enforcement department. 1407

(2) (a) No amounts shall be allocated to a fund under this 1408  
section or used by an agency unless the agency has adopted a 1409  
written internal control policy that addresses the use of moneys 1410  
received from the appropriate fund. The appropriate fund shall 1411  
be expended only in accordance with that policy and, subject to 1412  
the requirements specified in this section, only for the 1413  
following purposes: 1414

(i) To pay the costs of protracted or complex 1415  
investigations or prosecutions; 1416

(ii) To provide reasonable technical training or 1417  
expertise; 1418

(iii) To provide matching funds to obtain federal grants 1419  
to aid law enforcement, in the support of DARE programs or other 1420  
programs designed to educate adults or children with respect to 1421  
the dangers associated with the use of drugs of abuse; 1422

(iv) To pay the costs of emergency action taken under 1423  
section 3745.13 of the Revised Code relative to the operation of 1424  
an illegal methamphetamine laboratory if the forfeited property 1425  
or money involved was that of a person responsible for the 1426  
operation of the laboratory; 1427

(v) ~~For other law enforcement purposes that the~~ 1428  
~~superintendent of the state highway patrol, department of public~~ 1429  
~~safety, auditor of state, prosecutor, county sheriff,~~ 1430  
~~legislative authority, department of taxation, Ohio casino~~ 1431  
~~control commission, board of township trustees, or board of park~~ 1432  
~~commissioners determines to be appropriate~~To purchase personal 1433  
safety equipment or apparel. 1434

(b) The board of pharmacy drug law enforcement fund shall 1435  
be expended only in accordance with the written internal control 1436  
policy so adopted by the board and only in accordance with 1437  
section 4729.65 of the Revised Code, except that it also may be 1438  
expended to pay the costs of emergency action taken under 1439  
section 3745.13 of the Revised Code relative to the operation of 1440  
an illegal methamphetamine laboratory if the forfeited property 1441  
or money involved was that of a person responsible for the 1442  
operation of the laboratory. 1443

(c) A fund listed in division (B) (4) (b) of this section, 1444  
other than the Medicaid fraud investigation and prosecution 1445  
fund, shall not be used to meet the operating costs of the 1446  
agency, office, or political subdivision that are unrelated to 1447  
law enforcement. 1448

(d) Forfeited moneys that are paid into the state treasury 1449  
to be deposited into the peace officer training commission fund 1450  
shall be used by the commission only to pay the costs of peace 1451  
officer training. 1452

(3) Any of the following offices or agencies that receive 1453  
amounts under this section during any calendar year shall file a 1454  
report with the specified entity, not later than the thirty- 1455  
first day of January of the next calendar year, verifying that 1456  
the moneys were expended only for the purposes authorized by 1457

this section or other relevant statute and specifying the 1458  
amounts expended for each authorized purpose: 1459

(a) Any sheriff or prosecutor shall file the report with 1460  
the county auditor. 1461

(b) Any municipal corporation police department shall file 1462  
the report with the legislative authority of the municipal 1463  
corporation. 1464

(c) Any township police department, township or joint 1465  
police district police force, or office of the constable shall 1466  
file the report with the board of township trustees of the 1467  
township. 1468

(d) Any park district police force or law enforcement 1469  
department shall file the report with the board of park 1470  
commissioners of the park district. 1471

(e) The superintendent of the state highway patrol, the 1472  
auditor of state, and the tax commissioner shall file the report 1473  
with the attorney general. 1474

(f) The executive director of the state board of pharmacy 1475  
shall file the report with the attorney general, verifying that 1476  
cash and forfeited proceeds paid into the board of pharmacy drug 1477  
law enforcement fund were used only in accordance with section 1478  
4729.65 of the Revised Code. 1479

(g) The peace officer training commission shall file a 1480  
report with the attorney general, verifying that cash and 1481  
forfeited proceeds paid into the peace officer training 1482  
commission fund pursuant to this section during the prior 1483  
calendar year were used by the commission during the prior 1484  
calendar year only to pay the costs of peace officer training. 1485

(h) The executive director of the Ohio casino control 1486  
commission shall file the report with the attorney general, 1487  
verifying that cash and forfeited proceeds paid into the casino 1488  
control commission enforcement fund were used only in accordance 1489  
with section 3772.36 of the Revised Code. 1490

(D) The written internal control policy of a county 1491  
sheriff, prosecutor, municipal corporation police department, 1492  
township police department, township or joint police district 1493  
police force, office of the constable, or park district police 1494  
force or law enforcement department shall provide that at least 1495  
ten per cent of the first one hundred thousand dollars of 1496  
amounts deposited during each calendar year in the agency's law 1497  
enforcement trust fund under this section, and at least twenty 1498  
per cent of the amounts exceeding one hundred thousand dollars 1499  
that are so deposited, shall be used in connection with 1500  
community preventive education programs. The manner of use shall 1501  
be determined by the sheriff, prosecutor, department, police 1502  
force, or office of the constable after receiving and 1503  
considering advice on appropriate community preventive education 1504  
programs from the county's board of alcohol, drug addiction, and 1505  
mental health services, from the county's alcohol and drug 1506  
addiction services board, or through appropriate community 1507  
dialogue. 1508

The financial records kept under the internal control 1509  
policy shall specify the amount deposited during each calendar 1510  
year in the portion of that amount that was used pursuant to 1511  
this division, and the programs in connection with which the 1512  
portion of that amount was so used. 1513

As used in this division, "community preventive education 1514  
programs" include, but are not limited to, DARE programs and 1515

other programs designed to educate adults or children with 1516  
respect to the dangers associated with using drugs of abuse. 1517

(E) Upon the sale, under this section or section 2981.12 1518  
of the Revised Code, of any property that is required by law to 1519  
be titled or registered, the state shall issue an appropriate 1520  
certificate of title or registration to the purchaser. If the 1521  
state is vested with title and elects to retain property that is 1522  
required to be titled or registered under law, the state shall 1523  
issue an appropriate certificate of title or registration. 1524

(F) Any failure of a law enforcement officer or agency, 1525  
prosecutor, court, or the attorney general to comply with this 1526  
section in relation to any property seized does not affect the 1527  
validity of the seizure and shall not be considered to be the 1528  
basis for suppressing any evidence resulting from the seizure, 1529  
provided the seizure itself was lawful. 1530

**Sec. 2981.14.** (A) ~~Nothing~~ Subject to division (B) of this 1531  
section, nothing in this chapter precludes the head of a law 1532  
enforcement agency that seizes property from seeking forfeiture 1533  
under federal law. If the property is forfeitable under this 1534  
chapter and federal forfeiture is not sought, the property is 1535  
subject only to this chapter. 1536

(B) A law enforcement agency or prosecuting authority 1537  
shall not directly or indirectly transfer any property seized by 1538  
the agency or authority to any federal law enforcement authority 1539  
or other federal agency for purposes of forfeiture under federal 1540  
law unless the value of the seized property exceeds fifty 1541  
thousand dollars, excluding the potential value of the sale of 1542  
contraband. 1543

(C) Any law enforcement agency that receives moneys from a 1544

sale of forfeited property under federal law shall deposit, use, 1545  
and account for the amounts, including any interest derived, in 1546  
accordance with applicable federal law. If the state highway 1547  
patrol or the investigative unit of the department of public 1548  
safety receives such federal forfeiture moneys, the appropriate 1549  
official shall deposit all interest or other earnings derived 1550  
from the investment of the moneys into the highway patrol 1551  
treasury contraband fund, the highway patrol justice contraband 1552  
fund, the investigative unit treasury contraband fund, or the 1553  
investigative unit justice contraband fund, whichever is 1554  
appropriate. 1555

~~(C)~~ (D) There is hereby created in the state treasury the 1556  
highway patrol treasury contraband fund, the highway patrol 1557  
justice contraband fund, the investigative unit treasury 1558  
contraband fund, and the investigative unit justice contraband 1559  
fund. Each fund shall consist of moneys received under division 1560  
~~(B)~~ (C) of this section and shall be used in accordance with any 1561  
federal or other requirements associated with moneys received. 1562

**Section 2.** That existing sections 2923.36, 2981.01, 1563  
2981.02, 2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2981.11, 1564  
2981.12, 2981.13, and 2981.14 and section 2981.05 of the Revised 1565  
Code are hereby repealed. 1566