

TITLE XIII: GENERAL OFFENSES

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CHAPTER 130: GENERAL PROVISIONS

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Statutory reference:

Mayor's Court generally, see R.C. Chapter 1905
Municipal Court generally, see R.C. Chapter 1901
Trials, Magistrate Courts, see R.C. Chapter 2938

§ 130.01 APPLICATION OF TITLE XIII.

(A) Title XIII of this code of ordinances embodies and prescribes penalties for offenses against the municipality not classifiable in previous titles and chapters. The word "misdemeanors", as used in this Title, is not exhaustive and does not imply that offenses found elsewhere in this code of ordinances are not also misdemeanors and punishable as such.

(B) Each act or omission for which a fine, imprisonment, or both is provided under this Title or elsewhere in this code, or each act or omission which is declared a violation of this code, is unlawful and is hereby made a misdemeanor. Upon conviction, the penalty or penalties so provided shall be imposed by the court.

§ 130.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTRABAND. Any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. The term includes but is not limited to all of the following:

(1) Any controlled substance, as defined in R.C. § 3719.01, or any device or paraphernalia related thereto;

(2) Any unlawful gambling device or paraphernalia;

(3) Any dangerous ordinance or obscene material.

DANGEROUS OFFENDER. A person who has committed an offense, whose history, character and condition reveal a substantial risk that he or she will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences.

DEADLY FORCE. Any force that carries a substantial risk that it will proximately result in the death of any person.

FORCE. Any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

LAW ENFORCEMENT OFFICER. Any of the following:

(1) A Sheriff, deputy sheriff, constable, police officer of a township or joint police district, Marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D) or state highway patrol trooper.

(2) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority.

(3) The Mayor, in a capacity as chief conservator of the peace within the municipality.

(4) A member of an auxiliary police force organized by the county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission.

(5) A person lawfully called pursuant to R.C. § 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called.

(6) A person appointed by a Mayor pursuant to R.C. § 737.01 as a special patrolling officer during a riot or emergency, for the purposes and during the time when the person is appointed.

(7) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence.

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor.

(9) A veterans' home police officer appointed under R.C. § 5907.02.

(10) A member of a police force employed by a regional transit authority under R.C. § 306.35(Y).

(11) A special police officer employed by a port authority under R.C. § 4582.04 or 4582.28.

(12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to R.C. § 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms.

(13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in 14 C.F.R. § 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in 49 C.F.R. parts 1542 and 1544, as amended.

NOT GUILTY BY REASON OF INSANITY. A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in R.C. § 2901.05, that at the time of the commission of the offense, he or she did not know, as a result of a severe mental disease or defect, the wrongfulness of his or her acts.

OFFENSE OF VIOLENCE.

(1) A violation of R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15,

2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, division (A)(1), (A)(2) or (A)(3) of R.C. § 2911.12, or of division (B)(1), (B)(2), (B)(3) or (B)(4) of R.C. § 2919.22, or felonious sexual penetration in violation of former R.C. § 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States, substantially equivalent to any section, division or offense listed in division (1) of this definition;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or of the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2), or (3) of this definition.

PERSON.

(1) (a) Subject to division (2) of this definition, as used in any section contained in Title XIII of this code that sets forth a criminal offense, the term includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership and association.

2. An unborn human who is viable.

(b) As used in any section contained in Title XIII of this code that does not set forth a criminal offense, the term includes an individual, corporation, business trust, estate, partnership and association.

(c) As used in division (1)(a)2. of this definition, "unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth. "Viable" means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (1)(a) of this definition, in no case shall the portion of the definition of the term "person" that is set forth in division (1)(a)2. of this definition be applied or construed in any section contained in Title XIII of this code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (2)(a) of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the

pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21 or 2903.22, or any substantially equivalent municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate R.C. § 2919.12, 2919.13(B), 2919.151, 2919.17 or 2919.18, or any substantially equivalent municipal ordinance, may be punished as a violation of such section, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with R.C. § 2919.12.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby;
2. Her causing, in any other manner, the death *in utero* of a viable, unborn human that she is carrying;
3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

PHYSICAL HARM TO PERSONS. Any injury, illness, or other physiological impairment, regardless of its gravity or duration.

PHYSICAL HARM TO PROPERTY. Any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. The term does not include wear and tear occasioned by normal use.

PRIVILEGE. An immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

PROPERTY.

(1) Any property, real or personal, tangible or intangible, and any interest or license in that property. The term includes but is not limited to cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human-readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright or patent. "Financial instruments associated with computers" include but are not limited to checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(2) As used in this definition, "trade secret" has the same meaning as in R.C. § 1333.61, and "telecommunications service" and "information service" have the same meanings as in R.C. § 2913.01.

(3) As used in this definition and in the definition of "contraband" in this section, "cable television service," "computer," "computer network," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in R.C. § 2913.01.

REPEAT OFFENDER. A person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

(1) Having been convicted of one or more offenses of violence, as defined in R.C. § 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent offense of violence;

(2) Having been convicted of one or more sexually oriented offenses, as defined in R.C. § 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent sexually oriented offense;

(3) Having been convicted of one or more theft offenses, as defined in R.C. § 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent theft offense;

(4) Having been convicted of one or more felony drug abuse offenses, as defined in R.C. § 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent felony drug abuse offense;

(5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;

(6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense.

RISK. A significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

SCHOOL. Has the same meaning as in R.C. § 2925.01.

SCHOOL ACTIVITY. Any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07.

SCHOOL BUILDING. Has the same meaning as in R.C. § 2925.01.

SCHOOL BUS. Has the same meaning as in R.C. § 4511.01.

SCHOOL PREMISES. Has the same meaning as in R.C. § 2925.01.

SCHOOL SAFETY ZONE. Consists of a school, school building, school premises, school activity, and school bus.

SERIOUS PHYSICAL HARM TO PERSONS. Any of the following:

(1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(2) Any physical harm that carries a substantial risk of death;

(3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;

(5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

SERIOUS PHYSICAL HARM TO PROPERTY. Any physical harm to property that does either of the following:

(1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort, or money to repair or replace;

(2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.

SUBSTANTIAL RISK. A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
(R.C. §§ 2901.01, 2935.36(E)) (Rev. 2012)

§ 130.03 CLASSIFICATION OF OFFENSES.

As used in this Title:

(A) Offenses include misdemeanors of the first, second, third, and fourth degree, minor misdemeanors, and offenses not specifically classified.

(B) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.

(C) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.

(D) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:

(1) For an offense committed prior to January 1, 2004, a fine not exceeding \$100;

(2) For an offense committed on or after January 1, 2004, a fine not exceeding \$150, community service under R.C. § 2929.27(D), or a financial sanction other than a fine under R.C. § 2929.28.
(R.C. § 2901.02) (Rev. 2012)

§ 130.04 COMMON LAW OFFENSES ABROGATED.

(A) No conduct constitutes a criminal offense against the municipality unless it is defined as an offense in this code.

(B) An offense is defined when one or more sections of this code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(C) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree. (R.C. § 2901.03)

§ 130.05 RULES OF CONSTRUCTION.

(A) Except as otherwise provided in division (C) or (D) of this section, sections of this code defining offenses or penalties shall be strictly construed against the municipality and liberally construed in favor of the accused.

(B) Rules of criminal procedure and sections of this code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy, and sure administration of justice.

(C) Any provision of a section of this code that refers to a previous conviction of or plea of guilty to a violation of a section of this code, the Ohio Revised Code or a division of a section of this code or the Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this municipality, state, another state, or the United States or under an existing or former municipal ordinance.

(D) Any provision of this code that refers to a section, or to a division of a section, of this code that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this state, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense.

(R.C. § 2901.04) (Rev. 2005)

§ 130.06 LIMITATION OF CRIMINAL PROSECUTIONS.

(A) (1) Except as provided in division (A)(2) or (A)(3) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

(a) For a felony, six years;

(b) For a misdemeanor other than a minor misdemeanor, two years;

(c) For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a violation of R.C. § 2903.01 or R.C. § 2903.02.

(3) Except as otherwise provided in divisions (B) through (H) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within 20 years after the offense is committed:

(a) A violation of R.C. § 2903.03, 2903.04, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02, a violation of R.C. § 2903.11 or 2903.12 if the victim is a peace officer, a violation of R.C. § 2903.13 that is a felony, or a violation of former R.C. § 2907.12.

(b) A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (A)(3)(a) of this section.

(B) (1) Except as otherwise provided in division (B)(2) of this section, if the period of limitation provided in division (A)(1) or (A)(3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of fiduciary duty within one year after discovery of the offense either by an aggrieved person or by the aggrieved person's legal representative who is not a party to the offense.

(2) If the period of limitation provided in division (A)(1) or (A)(3) of this section has expired, prosecution for a violation of R.C. § 2913.49 shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

(C) (1) If the period of limitation provided in division (A)(1) or (A)(3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

(a) For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;

(b) For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this division:

OFFENSE IS DIRECTLY RELATED TO THE MISCONDUCT IN OFFICE OF A PUBLIC SERVANT. The phrase includes but is not limited to a violation of R.C. § 101.71, 101.91, 121.61 or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this division (C)(2).

PUBLIC SERVANT. Has the same meaning as in R.C. § 2921.01.

(D) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(E) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process unless reasonable diligence is exercised to execute the same.

(F) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(G) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this municipality or conceals the accused's identity or whereabouts is prima facie evidence of the accused's purpose to avoid prosecution.

(H) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this state, even though the indictment, information, or process that commenced the prosecution is quashed or the proceedings on the indictment, information, or process are set aside or reversed on appeal.

(I) The period of limitation for a violation of this Title XIII or Title XXIX of the Ohio Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age shall not begin to run until either of the following occurs:

(1) The victim of the offense reaches the age of majority.

(2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

(J) As used in this section, **PEACE OFFICER** has the same meaning as in R.C. § 2935.01. (R.C. § 2901.13) (Rev. 2009)

Statutory reference:

Limitation for income tax violations, see R.C. § 718.12

§ 130.07 REQUIREMENTS FOR CRIMINAL LIABILITY; VOLUNTARY INTOXICATION.

(A) Except as provided in division (B) of this section, a person is not guilty of an offense unless both of the following apply:

(1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;

(2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section defining the offense.

(B) When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.

(C) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(D) As used in this section:

CULPABILITY. Means purpose, knowledge, recklessness, or negligence, as defined in R.C. § 2901.22.

INTOXICATION. Includes but is not limited to intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

INVOLUNTARY ACTS. Means reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition are involuntary acts.

POSSESSION. Means a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

(R.C. § 2901.21) (Rev. 2001)

§ 130.08 CULPABLE MENTAL STATES.

(A) A person acts purposely when it is his or her specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain

nature, regardless of what the offender intends to accomplish thereby, it is his or her specific intention to engage in conduct of that nature.

(B) A person acts knowingly, regardless of his or her purpose, when he or she is aware that his or her conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he or she is aware that such circumstances probably exist.

(C) A person acts recklessly when, with heedless indifference to the consequences, he or she perversely disregards a known risk that his or her conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he or she perversely disregards a known risk that such circumstances are likely to exist.

(D) A person acts negligently when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that his or her conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that such circumstances may exist.

(E) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge, or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element. (R.C. § 2901.22)

§ 130.09 ORGANIZATIONAL CRIMINAL LIABILITY.

(A) An organization may be convicted of an offense under any of the following circumstances:

(1) The offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is

accountable or the circumstances under which it is accountable, such provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his or her office or employment.

(B) When strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(C) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(D) As used in this section, *ORGANIZATION* means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust, or other commercial or legal entity. The term does not include an entity organized as or by a governmental agency for the execution of a governmental program. (R.C. § 2901.23)

§ 130.10 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(A) An officer, agent, or employee of an organization, as defined in R.C. § 2901.23, may be prosecuted for an offense committed by such organization, if he or she acts with the kind of culpability required for the commission of the offense, and any of the following apply:

(1) In the name of the organization or in its behalf, he or she engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he or she has direct responsibility;

(2) He or she has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(B) When a person is convicted of an offense by reason of this section, he or she is subject to the same penalty as if he or she had acted in his or her own behalf. (R.C. § 2901.24) (Rev. 1999)

§ 130.11 ATTEMPT.

(A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(C) No person who is convicted of committing a specific offense, of complicity in the commission of an offense, or of conspiracy to commit an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(D) It is an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(E) (1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree, to be prosecuted under appropriate state law. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of R.C. Chapter 3734, other than R.C. § 3734.18, that relates to hazardous wastes, an attempt is a felony to be prosecuted under appropriate state law. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

(2) In addition to any other sanctions imposed pursuant to division (E)(1) of this section for an attempt to commit aggravated murder or murder in violation of division (A) of this section, if the offender used a motor vehicle as the means to attempt to commit the offense, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license,

or nonresident operating privilege as specified in R.C. § 4510.02(A)(2).

(3) If a person is convicted of or pleads guilty to attempted rape and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1418, 2941.1419, or 2941.1420, the offender shall be sentenced to a prison term or term of life imprisonment pursuant to R.C. § 2971.03.

(F) As used in this section:

DRUG ABUSE OFFENSE. Has the same meaning as in R.C. § 2925.01.

MOTOR VEHICLE. Has the same meaning as in R.C. § 4501.01.

(R.C. § 2923.02) (Rev. 2008)

Statutory reference:

Conspiracy, see R.C. § 2923.01

Solid and hazardous wastes, see R.C. Chapter 3734

§ 130.12 COMPLICITY.

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;

(2) Aid or abet another in committing the offense;

(3) Conspire with another to commit the offense in violation of R.C. § 2923.01;

(4) Cause an innocent or irresponsible person to commit the offense.

(B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of R.C. § 2923.02 or a substantially equivalent municipal ordinance.

(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court shall charge the jury in accordance with R.C. § 2923.03(D).

(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his or her complicity, under

circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he or she were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

(R.C. § 2923.03) (Rev. 1999)

Statutory reference:

Conspiracy, see R.C. § 2923.01

§ 130.13 PRESUMPTION OF INNOCENCE; PROOF OF OFFENSE; AFFIRMATIVE DEFENSE.

(A) Every person accused of an offense is presumed innocent until proven guilty beyond a reasonable doubt, and the burden of proof for all elements of the offense is upon the prosecution. The burden of going forward with the evidence of an affirmative defense, and the burden of proof by a preponderance of the evidence, for an affirmative defense, is upon the accused.

(B) (1) Subject to division (B)(2) of this section, a person is presumed to have acted in self defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force.

(2) (a) The presumption set forth in division (B)(1) of this section does not apply if the person against whom the defensive force is used has a right to be in, or is a lawful resident of, the residence or vehicle.

(b) The presumption set forth in division (B)(1) of this section does not apply if the person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that residence or vehicle.

(3) The presumption set forth in division (B)(1) of this section is a rebuttable presumption and may be rebutted by a preponderance of the evidence.

(C) As part of its charge to the jury in a criminal case, the court shall read the definitions of "reasonable doubt" and "proof beyond a reasonable doubt", contained in division (D) of this section.

(D) As used in this section:

AFFIRMATIVE DEFENSE. An affirmative defense is either of the following:

(a) A defense expressly designated as affirmative;

(b) A defense involving an excuse or justification peculiarly within the knowledge of the accused, on which the accused can fairly be required to adduce supporting evidence.

DWELLING. Means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes but is not limited to an attached porch, and a building or conveyance with a roof over it includes but is not limited to a tent.

PROOF BEYOND A REASONABLE DOUBT. Proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person's own affairs.

REASONABLE DOUBT. Reasonable doubt is present when the jurors, after they have carefully considered and compared all the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reasonable and common sense. The term is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt.

RESIDENCE. Means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest.

VEHICLE. Means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.
(R.C. § 2901.05) (Rev. 2009)

§ 130.14 BATTERED WOMAN SYNDROME.

(A) The municipality hereby declares that it recognizes both of the following, in relation to the "battered woman syndrome": that the syndrome currently is a matter of commonly accepted scientific knowledge, and that the subject matter and details of the syndrome are not within the general understanding or experience of a person who is a member of the general populace and are not within the field of common knowledge.

(B) If a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self defense, the person may introduce expert testimony of the "battered woman syndrome" and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of force in question. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.
(R.C. § 2901.06)

**§ 130.15 DELINQUENCY ADJUDICATIONS
DEEMED CONVICTIONS.**

(A) If a person is alleged to have committed an offense and if the person previously has been adjudicated a delinquent child or juvenile traffic offender for a violation of a law or ordinance, except as provided in division (B) of this section, the adjudication as a delinquent child or as a juvenile traffic offender is a conviction for a violation of the law for purposes of determining the offense with which the person should be charged and, if the person is convicted of or pleads guilty to an offense, the sentence to be imposed upon the person relative to the conviction or guilty plea.

(B) A previous adjudication of a person as a delinquent child or juvenile traffic offender for a violation of a law or ordinance is not a conviction for a violation of the law or ordinance for purposes of determining whether the person is a repeat violent offender, as defined in R.C. § 2929.01, or whether the person should be sentenced as a repeat violent offender under R.C. § 2929.14(B)(2) and R.C. § 2941.149.

(R.C. § 2901.08) (Rev. 2012)

§ 130.16 CRIMINAL LAW JURISDICTION.

(A) A person is subject to criminal prosecution and punishment in this municipality if any of the following occur:

(1) The person commits an offense under the laws of this municipality, any element of which takes place in this municipality;

(2) While in this municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this municipality and the other jurisdiction, or, while in this municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this municipality and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this division, the person is subject to criminal prosecution and punishment in this municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction;

(3) While out of this municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this municipality;

(4) While out of this municipality, the person omits to perform a legal duty imposed by the laws of this

municipality, which omission affects a legitimate interest of the municipality in protecting, governing or regulating any person, property, thing, transaction, or activity in this municipality;

(5) While out of this municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this municipality;

(6) While out of this municipality, the person unlawfully takes or entices another person and subsequently brings the other person into this municipality;

(7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image or other telecommunication to be disseminated or transmitted into this municipality in violation of the law of this state or municipality.

(B) In homicide, the element referred to in division (A)(1) of this section includes the act that causes death, the physical contact that causes death, the death itself, or any other element that is set forth in the offense in question. If any part of the body of a homicide victim is found in this municipality, the death is presumed to have occurred within this municipality.

(C) (1) This municipality includes the land and water within its boundaries and the air space above that land and water, with respect to which this municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this municipality for purposes of this section.

(2) The courts of common pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio River extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those courts of common pleas has concurrent jurisdiction on the Ohio River with any adjacent court of common pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio River and that has jurisdiction on the Ohio River under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

(D) When an offense is committed under the laws of this municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this municipality for purposes of this section.

(E) When a person is subject to criminal prosecution and punishment in this municipality for an offense committed or completed outside this municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this municipality.

(F) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(G) This section shall be liberally construed, consistent with constitutional limitations, to allow this municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this municipality.

(H) For purposes of division (A)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(I) As used in this section, *COMPUTER, COMPUTER SYSTEM, COMPUTER NETWORK, INFORMATION SERVICE, TELECOMMUNICATION, TELECOMMUNICATIONS DEVICE, TELECOMMUNICATIONS SERVICE, DATA and WRITING* have the same meanings as in R.C. § 2913.01.

(R.C. § 2901.11) (Rev. 2006)

Statutory reference:

State criminal law jurisdiction, see R.C. § 2901.11

§ 130.17 DISPOSITION OF UNCLAIMED OR FORFEITED PROPERTY HELD BY POLICE DEPARTMENT.

(A) Safekeeping of property in custody.

(1) (a) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of the Police Department shall be kept safely by the Police Department, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to this section or R.C. §§ 2981.12 and 2981.13.

(b) This section does not apply to the custody and disposal of any of the following:

1. Vehicles subject to forfeiture under R.C. Title 45, except as provided in division (B)(1)(f) of this section;

2. Abandoned junk motor vehicles or other property of negligible value;

3. Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;

4. Animals taken, and devices used in unlawfully taking animals, under R.C. § 1531.20;

5. Controlled substances sold by a peace officer in the performance of the officer's official duties under R.C. § 3719.141;

6. Property recovered by a township law enforcement agency under R.C. §§ 505.105 to 505.109;

7. Property held and disposed of under an ordinance of the municipality or under R.C. §§ 737.29 to 737.33, except that if the municipality has received notice of a citizens' reward program as provided in division (B)(5) of this section and disposes of property under an ordinance shall pay 25% of any moneys acquired from any sale or auction to the citizens' reward program.

(2) (a) The Police Department shall adopt and comply with a written internal control policy that does all of the following:

1. Provides for keeping detailed records as to the amount of property acquired by the Police Department and the date property was acquired;

2. Provides for keeping detailed records of the disposition of the property, which shall include but not be limited to both of the following:

a. 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.

b. The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

3. Complies with R.C. § 2981.13 if the Police Department has a Law Enforcement Trust Fund or similar fund created under that section.

(b) If the Police Department, during any calendar year, has any seized or forfeited property covered by this section in its custody, including amounts distributed under R.C. § 2981.13 to its Law Enforcement Trust Fund or a similar fund created for the State Highway Patrol, Department of Public Safety, or State Board of Pharmacy,

the Police Department shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public records kept by the Police Department pursuant to this section for that calendar year. The Police Department shall send a copy of the cumulative report to the Attorney General not later than the first day of March in the calendar year following the calendar year covered by the report.

(c) The records kept under the internal control policy shall be open to public inspection during the Police Department's regular business hours. The policy adopted under this section and each report received by the Attorney General is a public record open for inspection under R.C. § 149.43.

(3) The Police Department, with custody of property to be disposed of under this section or R.C. §§ 2981.12 or 2981.13, shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(4) As used in this section:

CITIZENS' REWARD PROGRAM. Has the same meaning as in R.C. § 9.92.

LAW ENFORCEMENT AGENCY. Includes correctional institutions.

TOWNSHIP LAW ENFORCEMENT AGENCY. Means an organized police department of a township, a township police district, a joint police district, or the office of a township constable. (R.C. § 2981.11) (Rev. 2012)

(B) *Disposition of unclaimed or forfeited property.*

(1) Unclaimed or forfeited property in the custody of the Police Department, other than property described in division (A)(1)(b) of this section, shall be disposed of by order of any court of record that has territorial jurisdiction over the municipality, as follows:

(a) Drugs shall be disposed of pursuant to R.C. § 3719.11 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.

(b) 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)(2) of this section. The Police Department may sell other firearms and

dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The Police Department 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.

(c) Obscene materials shall be destroyed.

(d) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under R.C. Chapters 4301 and 4303 or otherwise forfeited to the state for an offense under R.C. § 4301.45 or R.C. § 4301.53 shall be sold by the Division of Liquor Control if the Division determines that it is fit for sale or shall be placed in the custody of the Investigations Unit in the Ohio Department of Public Safety and be used for training relating to law enforcement activities. The Ohio Department of Public Safety, with the assistance of the Division of Liquor Control, shall adopt rules in accordance with R.C. Chapter 119 to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under R.C. Title 43 has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division (B)(1)(d) shall be paid into the State Treasury. Any beer, intoxicating liquor, or alcohol that the Division determines to be unfit for sale shall be destroyed.

(e) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the Inmates' Industrial and Entertainment Fund of the institution if the sender is not known.

(f) 1. Any mobile instrumentality forfeited under R.C. Chapter 2981 may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

2. Vehicles and vehicle parts forfeited under R.C. §§ 4549.61 to 4549.63 may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the Director of Public Safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(g) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that

purpose or disposed of under division (B)(2) of this section.

(2) Unclaimed or forfeited property that is not described in division (B)(1) of this section or division (A)(1)(b) of this section, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.

(3) Except as provided in divisions (B)(1) and (B)(5) of this section and after compliance with division (B)(4) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the General Revenue Fund of the state, or the General Fund of the municipality.

(4) If the property was in the possession of the Police Department in relation to a delinquent child proceeding in a juvenile court, 10% of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the Department of Alcohol and Drug Addiction Services under R.C. § 3793.06. A juvenile court shall not specify a program, except as provided in this division, unless the program is in the same county as the court or in a contiguous county. If no certified program is located in any of those counties, the juvenile court may specify a certified program anywhere in Ohio. The remaining 90% of the proceeds or cash shall be applied as provided in division (B)(3) of this section.

(5) (a) If the Board of County Commissioners recognizes a citizens' reward program under R.C. § 9.92, the Board shall notify the Police Department of the recognition by filing a copy of its resolution conferring that recognition with the Police Department. When the Board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of the municipality, the Board shall so notify the Police Department of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipality's population.

(b) Upon being so notified, the Police Department shall pay 25% of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

(6) Any property forfeited under R.C. Chapter 2981 not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying

criminal offense or a different offense arising out of the same facts and circumstances.

(R.C. § 2981.12) (Rev. 2012)

(C) *Disposition of contraband, proceeds, or instrumentalities.* Except as otherwise provided in R.C. § 2981.13, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to R.C. Chapter 2981 shall be disposed of, used, or sold pursuant to division (B) of this section or R.C. § 2981.12. If the property is to be sold under division (B) of this section or R.C. § 2981.12, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(R.C. § 2981.13(A)) (Rev. 2008)

Statutory reference:

Forfeiture of property generally, see R.C. Chapter 2981

§ 130.18 IMPOSING SENTENCE FOR MISDEMEANOR.

(A) (1) Unless a mandatory jail term is required to be imposed by R.C. § 1547.99(G), 4510.14(B), or 4511.19(G), or any other provision of the Ohio Revised Code, or any municipal ordinance, a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in § 130.99(B).

(2) Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of § 130.99 or 133.99 of this code or R.C. §§ 2929.23 through 2929.28, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under § 130.99(C) through (G). The court shall not impose a sentence that imposes an unnecessary burden on local government resources.

(B) (1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:

(a) The nature and circumstances of the offense or offenses;

(b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

(c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;

(d) Whether the victim’s youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

(e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (B)(1)(c) of this section.

(2) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (B)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in § 130.99(B).

(C) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under § 130.99(D), (E), (F), and (G). A court may impose the longest jail term authorized under § 130.99(C) only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future crime.

(D) (1) A sentencing court shall consider any relevant oral or written statement made by the victim, the defendant, the defense attorney, or the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by R.C. Chapter 2930.

(2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim’s right to file an application for an award of reparations pursuant to R.C. §§ 2743.51 through 2743.72.
(R.C. § 2929.22) (Rev. 2005)

§ 130.19 MULTIPLE SENTENCES.

(A) Except as provided in division (B) of this section, R.C. § 2929.14(E), or R.C. § 2971.03(D) or (E), a prison term, jail term, or sentence of imprisonment shall be served concurrently with any other prison term, jail term, or sentence of imprisonment imposed by a court of this municipality, this state, another state, or the United States. Except as provided in division (B)(2) of this section, a jail term or sentence of imprisonment for misdemeanor shall be served concurrently with a prison term or sentence of imprisonment for felony served in a state or federal correctional institution.

(B) (1) A jail term or sentence of imprisonment for a misdemeanor shall be served consecutively to any other prison term, jail term, or sentence of imprisonment when

the trial court specifies that it is to be served consecutively or when it is imposed for a misdemeanor violation of R.C. § 2907.322, 2921.34 or 2923.131. When consecutive sentences are imposed for misdemeanors under this division, the term to be served is the aggregate of the consecutive terms imposed, except that the aggregate term to be served shall not exceed 18 months.

(2) A jail term or sentence of imprisonment imposed for a misdemeanor violation of R.C. § 4510.11, 4510.14, 4510.16, 4510.21, or 4511.19, or a substantially equivalent municipal ordinance, shall be served consecutively to a prison term that is imposed for a felony violation of R.C. § 2903.06, 2903.07, 2903.08 or 4511.19 or a felony violation of R.C. § 2903.04 involving the operation of a motor vehicle by the offender and that is served in a state correctional institution when the trial court specifies that it is to be served consecutively. When consecutive jail terms or sentences of imprisonment and prison terms are imposed for one or more misdemeanors and one or more felonies under this division, the term to be served is the aggregate of the consecutive terms imposed, and the offender shall serve all terms imposed for a felony before serving any term imposed for a misdemeanor.
(R.C. § 2929.41) (Rev. 2004)

§ 130.20 APPREHENSION, DETENTION, OR ARREST OF PERSON ON BOND.

(A) No person, other than a law enforcement officer, shall apprehend, detain, or arrest a principal on bond, wherever issued, unless that person meets all of the following criteria:

(1) The person is any of the following:

(a) Qualified, licensed, and appointed as a surety bail bond agent under R.C. §§ 3905.83 through 3905.95;

(b) Licensed as a surety bail bond agent by the state where the bond was written;

(c) Licensed as a private investigator under R.C. Chapter 4749;

(d) Licensed as a private investigator by the state where the bond was written;

(e) An off-duty peace officer, as defined in R.C. § 2921.51.

(2) The person, prior to apprehending, detaining, or arresting the principal, has entered into a written contract with the surety or with a licensed surety bail bond agent appointed by the surety, which contract sets forth the name of the principal who is to be apprehended, detained, or arrested. For purposes of this division (A)(2), *SURETY* has the same meaning as in R.C. § 3905.83.

(3) The person, prior to apprehending, detaining, or arresting the principal, has notified the local law enforcement agency having jurisdiction over the area in which such activities will be performed and has provided any form or identification or other information requested by the law enforcement agency.

(B) No person shall represent the person's self to be a bail enforcement agent or bounty hunter, or claim any similar title, in this municipality.

(C) Whoever violates this section is guilty of illegal bail bond agent practices.

(1) A violation of division (A) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of division (A) of this section, or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law.

(2) A violation of division (B) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of division (B) of this section, or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law.
(R.C. § 2927.27) (Rev. 2001)

§ 130.21 SELF DEFENSE: LIMITATIONS ON DUTY TO RETREAT PRIOR TO USING FORCE.

(A) As used in this section, *RESIDENCE* and *VEHICLE* have the same meanings as in R.C. § 2901.05.

(B) For purposes of any section of this code that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self defense or defense of another.
(R.C. § 2901.09) (Rev. 2009)

§ 130.99 PENALTY FOR TITLE XIII.

(A) *Generally.* Except where otherwise specifically classified within the body of the section of a chapter of this title, a violation of such section shall be deemed a misdemeanor punishable upon conviction by a fine of not more than \$500, imprisonment of not more than six months, or both.
(R.C. § 715.67)

(B) *Considerations in misdemeanor sentencing.*

(1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

(2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (B)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

(3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.

(4) Divisions (B)(1) and (B)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (B)(1) through (B)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.
(R.C. § 2929.21) (Rev. 2005)

(C) *Misdemeanor jail terms.*

(1) Except as provided in § 130.18 or 133.99 of this code or R.C. § 2929.22 or 2929.23 or division (C)(5) or (C)(6) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

(a) For a misdemeanor of the first degree, not more than 180 days;

(b) For a misdemeanor of the second degree, not more than 90 days;

(c) For a misdemeanor of the third degree, not more than 60 days;

(d) For a misdemeanor of the fourth degree, not more than 30 days.

(2) (a) A court that sentences an offender to a jail term under division (C) of this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (E)(2) of this section. The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

(b) 1. If a prosecutor, as defined in R.C. § 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(3) If a court sentences an offender to a jail term under division (C) of this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to R.C. § 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(4) If a person sentenced to a jail term pursuant to division (C) of this section, the court may impose as part of the sentence pursuant to R.C. § 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to R.C. § 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and R.C. § 2929.37, both of the following apply:

(a) The court shall specify both of the following as part of the sentence:

1. If the person is presented with an itemized bill pursuant to R.C. § 2929.37 for payment of the

costs of confinement, the person is required to pay the bill in accordance with that section.

2. If the person does not dispute the bill described in division (C)(4)(a)1. of this section and does not pay the bill by the times specified in R.C. § 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(b) The sentence automatically includes any certificate of judgment issued as described in division (C)(4)(a)2. of this section.

(5) If an offender who is convicted of or pleads guilty to a violation of R.C. § 4511.19(B), or any substantially equivalent municipal ordinance, also is convicted of or also pleads guilty to a specification of the type described in R.C. § 2941.1414 and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Ohio Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(6) (a) If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and to a specification of the type described in R.C. § 2941.1421 and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

1. Subject to division (C)(6)(a)2. of this section, an additional definite jail term of not more than 60 days;

2. If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of R.C. § 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.

(b) In lieu of imposing an additional definite jail term under division (C)(6)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (C)(6)(a) of this section. A sanction imposed under this division shall commence on the

date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of R.C. § 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (E) of this section or R.C. § 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (D) or this section or R.C. § 2929.25, and all provisions of this code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(7) If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2903.13 and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1423 that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least 30 days.

(8) If a court sentences an offender to a jail term under this division (C), the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under division (E) or (F) of this section for any jail days that are not mandatory jail days.
(R.C. § 2929.24) (Rev. 2012)

(D) *Misdemeanor community control sanctions.*

(1) (a) Except as provided in §§ 130.18 and 133.99 of this code or R.C. §§ 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:

1. Directly impose a sentence that consists of one or more community control sanctions authorized by divisions (E), (F), or (G) of this section. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court imposes a jail term upon the offender, the court may impose any community control sanction or combination of community control sanctions in addition to the jail term.

2. Impose a jail term under division (C) of this section from the range of jail terms authorized under that division for the offense, suspend all or a portion of the jail term imposed, and place the offender under a community control sanction or combination of community

control sanctions authorized under divisions (E), (F), or (G) of this section.

(b) The duration of all community control sanctions imposed upon an offender and in effect for an offender at any time shall not exceed five years.

(c) At sentencing, if a court directly imposes a community control sanction or combination of community control sanctions pursuant to division (D)(1)(a)1. of this section, the court shall state the duration of the community control sanctions imposed and shall notify the offender that if any of the conditions of the community control sanctions are violated the court may do any of the following:

1. Impose a longer time under the same community control sanction if the total time under all of the offender's community control sanctions does not exceed the five-year limit specified in division (D)(1)(b) of this section;

2. Impose a more restrictive community control sanction under division (E), (F), or (G) of this section, but the court is not required to impose any particular sanction or sanctions;

3. Impose a definite jail term from the range of jail terms authorized for the offense under division (C) of this section.

(2) If a court sentences an offender to any community control sanction or combination of community control sanctions pursuant to division (D)(1)(a)1. of this section, the sentencing court retains jurisdiction over the offender and the period of community control for the duration of the period of community control. Upon the motion of either party or on the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may modify the community control sanctions or conditions of release previously imposed, substitute a community control sanction or condition of release for another community control sanction or condition of release previously imposed, or impose an additional community control sanction or condition of release.

(3) (a) If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (E), (F), or (G) of this section, the court shall place the offender under the general control and supervision of the court or of a department of probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the municipal court or county court in that jurisdiction, the sentencing court may request the municipal court or the county court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the

sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.

(b) The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.

(4) (a) If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under division (E), (F), or (G) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.

(b) If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator one or more of the following penalties:

1. A longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (D)(1)(b) of this section;

2. A more restrictive community control sanction;

3. A combination of community control sanctions, including a jail term.

(c) If the court imposes a jail term upon a violator pursuant to division (D)(4)(b) of this section, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction imposed under division (D)(4)(b) of this section by all or part of the time the violator successfully spent under the sanction that was initially imposed.

(5) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (E), (F), or (G) of this section in an exemplary manner, the court may reduce the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (G) of this section.

(R.C. § 2929.25) (Rev. 2012)

(E) *Community residential sanction.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (E). Community residential sanctions include but are not limited to the following:

(a) A term of up to 180 days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;

(b) A term of up to 180 days in an alternative residential facility or a term in an alternative residential facility not to exceed the longest jail term available for the offense, whichever is shorter. The court may specify the level of security in the alternative residential facility that is needed for the offender.

(c) If the offender is an eligible offender, as defined in R.C. § 307.932, a term of up to 60 days in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender complete in the center the entire term imposed.

(2) A sentence to a community residential sanction under division (E)(1)(c) of this section shall be in accordance with R.C. § 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (E) may do either or both of the following:

(a) Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender's occupation or care for the offender's family;

(b) Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

(3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (E)(2) of this section be applied to any financial sanction imposed under division (G) of this section.

(4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.

(5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (E)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(6) The municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (E)(1)(a) of this section.
(R.C. § 2929.26) (Rev. 2012)

(F) *Nonresidential sanction where jail term is not mandatory.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or

combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include but are not limited to the following:

(a) A term of day reporting;

(b) A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;

(c) A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;

(d) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;

(e) A term of intensive probation supervision;

(f) A term of basic probation supervision;

(g) A term of monitored time;

(h) A term of drug and alcohol use monitoring, including random drug testing;

(i) A curfew term;

(j) A requirement that the offender obtain employment;

(k) A requirement that the offender obtain education or training;

(l) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;

(m) If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;

(n) A requirement that the offender obtain counseling if the offense is a violation of R.C. § 2919.25 or a substantially equivalent municipal ordinance or a violation of R.C. § 2903.13 or a substantially equivalent municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children.

This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.

(2) If the court imposes a term of community service pursuant to division (F)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

(3) In addition to the sanctions authorized under division (F)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

(4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (F)(2) of this section. (R.C. § 2929.27) (Rev. 2012)

(G) *Financial sanctions.*

(1) In addition to imposing court costs pursuant to R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (G). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include but are not limited to the following:

(a) *Restitution.*

1. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the

offender's crime or any survivor of the victim, in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

3. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under R.C. § 3937.18.

4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

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

(b) *Fines.* A fine of the type described in divisions (G)(1)(b)1. and (G)(1)(b)2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:

a. For a misdemeanor of the first degree, not more than \$1,000;

b. For a misdemeanor of the second degree, not more than \$750;

c. For a misdemeanor of the third degree, not more than \$500;

d. For a misdemeanor of the fourth degree, not more than \$250;

e. For a minor misdemeanor, not more than \$150.

2. A state fine or cost as defined in R.C. § 2949.111.

(c) *Reimbursement.*

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including but not limited to the following:

a. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021;

b. All or part of the costs of confinement in a jail or other residential facility, including but not limited to a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined;

c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.

2. The amount of reimbursement under division (G)(1)(c)1. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.

(2) (a) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (G) or court costs or is likely in the future to be able to pay the sanction or costs.

(b) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (F)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (F)(1) of this section in lieu of or in

addition to imposing a financial sanction under this division (G) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (F)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3) (a) The offender shall pay reimbursements imposed upon the offender pursuant to division (G)(1)(c) of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section to the county treasurer. The county treasurer shall deposit the reimbursements in the county's General Fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section.

(b) The offender shall pay reimbursements imposed upon the offender pursuant to division (G)(1)(c) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section.

(c) The offender shall pay reimbursements imposed pursuant to division (G)(1)(c) of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (E), (F), or (G) of this section to the provider.

(4) (a) Except as otherwise provided in this division (G)(4), a financial sanction imposed under division (G)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (G)(1)(c)1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (G)(1)(c)1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail

or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (G)(1)(a) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (G)(4)(b)1. of this section, through execution as described in division (G)(4)(b)2. of this section or through an order as described in division (G)(4)(b)3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

(b) Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

1. Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;

2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.

3. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33 or a substantially equivalent municipal ordinance.

(5) The civil remedies authorized under division (G)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(6) Each court imposing a financial sanction upon an offender under this division (G) may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(a) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (G), a court shall comply with R.C. §§ 307.86 through 307.92.

(b) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of

payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to R.C. § 301.28. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(c) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(7) No financial sanction imposed under this division (G) shall preclude a victim from bringing a civil action against the offender.

(R.C. § 2929.28) (Rev. 2012)

(H) *Organizational penalties.*

(1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to § 130.09 shall be fined by the court as follows:

(a) For a misdemeanor of the first degree, not more than \$5,000;

(b) For a misdemeanor of the second degree, not more than \$4,000;

(c) For a misdemeanor of the third degree, not more than \$3,000;

(d) For a misdemeanor of the fourth degree, not more than \$2,000;

(e) For a minor misdemeanor, not more than \$1,000;

(f) For a misdemeanor not specifically classified, not more than \$2,000;

(g) For a minor misdemeanor not specifically classified, not more than \$1,000.

(2) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then such penalty shall be imposed in lieu of the penalty provided in this section.

(3) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(4) This section does not prevent the imposition of available civil sanctions against an organization convicted

of an offense pursuant to § 130.09, either in addition to or in lieu of a fine imposed pursuant to this section.

(R.C. § 2929.31) (Rev. 2004)

Cross-reference:

Sentencing for sexually oriented offenses; sexual predators; registration, see § 133.99

Statutory reference:

Citation issuance and limitations on arrest for minor misdemeanors, see R.C. § 2935.26

Crime Victim's Reparations Fund, see R.C. § 2929.32

Habitual sex offender and sexual predator registration, see R.C. Chapter 2950

Reimbursement for costs of confinement, see

R.C. §§ 2929.36 et seq.

Reports to health care licensing boards of criminal offenses, see R.C. § 2929.42

CHAPTER 131: OFFENSES AGAINST PROPERTY

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Cross-reference:

Animals, offenses against, see §§ 90.20 et seq.
Property recovered by police, deposit of stolen property, see §§ 34.10 et seq.

Statutory reference:

Cable television service devices, unauthorized sale or possession, felony, see R.C. § 2913.041
Deceptive acts or practices in connection with consumer transactions, see O.A.C. Chapter 109:4-3
Disrupting public services, felony, see R.C. § 2909.04
E-mail advertisements, civil offenses and felony forgery offense, see R.C. § 2307.64
E-mail spam, civil offenses and felony offenses, see R.C. § 2913.421
Food stamps, illegal use, see R.C. § 2913.46
Telecommunications: fraud and unlawful use of a device, felony offenses, see R.C. §§ 2913.05 and 2913.06
Terrorism involving agricultural products or equipment, see R.C. § 901.511

§ 131.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANHYDROUS AMMONIA. A compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described below. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately 82% nitrogen to 18% hydrogen.

ASSISTANCE DOG. Has the same meaning as in R.C. § 955.011.

CABLE TELEVISION SERVICE. Any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

COIN MACHINE. Any mechanical or electronic device designed to do both of the following:

- (1) Receive a coin or bill, or token made for that purpose;
- (2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.

COMPUTER. An electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. The term includes but is not limited to all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

COMPUTER CONTAMINANT. Means a computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in divisions (1) through (4) of this definition or of a type or kind similar to a type or kind described in divisions (1) through (4) of this definition:

(1) A group of computer programs commonly known as “viruses” and “worms” that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;

(2) A group of computer programs commonly known as “Trojans” or “Trojan horses” that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;

(3) A group of computer programs commonly known as “zombies” that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer’s or network’s performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as “denial of service” or “distributed denial of service” attacks;

(4) A group of computer programs commonly known as “trap doors”, “back doors”, or “root kits” that are designed to bypass standard authentication software and that are designed to allow access or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.

COMPUTER HACKING.

(1) The term means any of the following:

(a) Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;

(b) Misusing computer or network services including but not limited to mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, “misuse of computer and network services” includes but is not limited to the unauthorized use of any of the following:

1. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;

2. File transfer program services or proxy servers to access other computers, computer systems, or computer networks;

3. Web servers to redirect users to other web pages or web servers.

(c) 1. Subject to division (1)(c)2. of this definition, using a group of computer programs commonly known as “port scanners” or “probes” to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes but is not limited to those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network’s facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including but not limited to operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

2. The group of computer programs referred to in division (1)(c)1. of this definition does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including but not limited to domain name services, mail transfer services, and other operating system services, computer programs commonly called “ping”, “tcpdump”, and “traceroute” and other network monitoring and management computer software, and computer programs commonly known as “nslookup” and “whois” and other systems administration computer software.

(d) The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

(2) The term does not include the introduction of a computer contaminant, as defined in this section, into a computer, computer system, computer program, or computer network.

COMPUTER NETWORK. A set of related and remotely-connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

COMPUTER PROGRAM. An ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to process data.

COMPUTER SERVICES. Includes but is not limited to the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

COMPUTER SOFTWARE. Computer programs, procedures, and other documentation associated with the operation of a computer system.

COMPUTER SYSTEM. A computer and related devices, whether connected or unconnected, including but not limited to data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

COUNTERFEIT TELECOMMUNICATIONS DEVICE. A telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. The phrase includes but is not limited to a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

CREATE A SUBSTANTIAL RISK OF SERIOUS PHYSICAL HARM TO ANY PERSON. Includes the creation of a substantial risk of serious physical harm to any emergency personnel.

CREDIT CARD. Includes but is not limited to a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller

machine, or a cash dispensing machine. It also includes a county procurement card issued under R.C. § 301.29.

DANGEROUS DRUG. Has the same meaning as in R.C. § 4729.01.

DANGEROUS ORDNANCE. Has the same meaning as in R.C. § 2923.11.

DATA. A representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network.

DECEPTION. To knowingly deceive another or cause another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

DEFRAUD. To knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

DEPRIVE. To do any of the following:

(1) To withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) To dispose of property so as to make it unlikely that the owner will recover it;

(3) To accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

DISABLED ADULT. A person who is 18 years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is 18 years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

DRUG ABUSE OFFENSE. Has the same meaning as in R.C. § 2925.01.

ELDERLY PERSON. A person who is 65 years of age or older.

ELECTRONIC FUND TRANSFER. Has the same meaning as in 92 Stat. 3728, 15 U.S.C. § 1693a, as amended.

EMERGENCY PERSONNEL. Means any of the following persons:

(1) A peace officer, as defined in R.C. § 2935.01;

(2) A member of a fire department or other firefighting agency of a municipal corporation, township, township fire district, joint fire district, other political subdivision, or combination of political subdivisions;

(3) A member of a private fire company, as defined in R.C. § 9.60, or a volunteer firefighter;

(4) A member of a joint ambulance district or joint emergency medical services district;

(5) An emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance operator, or other member of an emergency medical service that is owned or operated by a political subdivision or a private entity;

(6) The State Fire Marshal, the Chief Deputy State Fire Marshal, or an assistant state fire marshal;

(7) A fire prevention officer of a political subdivision or an arson, fire, or similar investigator of a political subdivision.

FEDERALLY-LICENSED FIREARMS DEALER. Has the same meaning as in R.C. § 5502.63.

FIREARM. Has the same meaning as in R.C. § 2923.11.

FORGE. To fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

GAIN ACCESS. To approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network, or any cable service or cable system both as defined in R.C. § 2913.04.

INFORMATION SERVICE.

(1) Subject to division (2) of this definition, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including but not limited to electronic publishing.

(2) The term does not include any use of a capability of a type described in division (1) of this definition for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

INTERNET. Has the same meaning as in R.C. § 341.42.

MOTOR VEHICLE. Has the same meaning as in R.C. § 4501.01.

OCCUPIED STRUCTURE. Means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:

(1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;

(2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;

(3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;

(4) At the time, any person is present or likely to be present in it.

OWNER. Unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

POLICE DOG OR HORSE. Has the same meaning as in R.C. § 2921.321.

POLITICAL SUBDIVISION. Has the same meaning as in R.C. § 2744.01.

RENTED PROPERTY. Personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property within any applicable minimum or maximum term; and the amount of consideration is generally determined by the duration of possession of the property.

SERVICES. Includes labor, personal services, professional services, rental services, public utility services including wireless service as defined in R.C. § 4931.40(F)(1), common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of R.C. § 2913.04 or any substantially equivalent municipal ordinance, includes cable services as defined in that section.

SLUG. An object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

STATE. Has the same meaning as in R.C. § 2744.01.

TELECOMMUNICATION. The origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence or intelligence of any nature over any communications system by any method, including but not limited to a fiber optic, electronic, magnetic, optical, digital or analog method.

TELECOMMUNICATIONS DEVICE. Any instrument, equipment, machine, or other device that facilitates telecommunication, including but not limited to a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

TELECOMMUNICATIONS SERVICE. The providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

THEFT OFFENSE. Any of the following:

(1) A violation of R.C. § 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former R.C. § 2913.47 or 2913.48, or R.C. § 2913.51, 2915.05, or 2921.41;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition, or a violation of R.C. § 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) A conspiracy to commit, attempt to commit, or complicity in committing any offense under division (1), (2), or (3) of this definition.

UTTER. To issue, publish, transfer, use, put or send into circulation, deliver, or display.

WRITING. Any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing

having in or upon it any written, type-written, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(R.C. §§ 2909.01, 2913.01) (Rev. 2012)

§ 131.02 ARSON; DETERMINING PROPERTY VALUE OR AMOUNT OF PHYSICAL HARM.

(A) Arson.

(1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

(2) Whoever violates this section is guilty of arson. Except as otherwise provided in this division, violation of this section is a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is \$1,000 or more, then the violation is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.03) (Rev. 2012)

(B) Determining property value or amount of physical harm.

(1) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of division (A):

(a) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.

(b) If the property is not covered under division (B)(1)(a) of this section, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

(c) If the property is not covered under division (B)(1)(a) of this section, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(2) As used in this section, **FAIR MARKET VALUE** has the same meaning as in R.C. § 2913.61.

(3) Prima facie evidence of the value of property, as provided in R.C. § 2913.61(D), may be used to establish the value of property pursuant to this section. (R.C. § 2909.11(B) - (D)) (Rev. 1999)

Cross-reference:

Negligent burning, see § 91.38

Statutory reference:

Aggravated arson, felony provisions, see R.C.

§ 2909.02

Arson, felony provisions generally, see R.C. § 2909.03

Convicted arsonist to make restitution to public agency, see R.C. § 2929.71

§ 131.03 CRIMINAL DAMAGING OR ENDANGERING; VEHICULAR VANDALISM.

(A) *Criminal damaging or endangering.*

(1) No person shall cause or create a substantial risk of physical harm to any property of another without the other person's consent:

(a) Knowingly, by any means; or

(b) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(2) Whoever violates this division (A) is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this division (A) creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation of this division (A) is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person, criminal damaging or endangering is a felony to be prosecuted under appropriate state law. If the property involved in a violation of this division (A) is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this division (A) is an occupied aircraft, criminal damaging or endangering is a felony to be prosecuted under appropriate state law. (R.C. § 2909.06)

(B) *Vehicular vandalism.*

(1) As used in this division (B):

ALLEY. Has the same meaning as in R.C.

§ 4511.01.

HIGHWAY. Means any highway as defined in R.C. § 4511.01 or any lane, road, street, alley, bridge, or overpass.

STREET. Has the same meaning as in R.C. § 4511.01.

VEHICLE. Has the same meaning as in R.C. § 4511.01.

VESSEL. Has the same meaning as in R.C. § 1547.01.

WATERS IN THIS STATE. Has the same meaning as in R.C. § 1547.01.

(2) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

(a) Any vehicle on a highway;

(b) Any boat or vessel on any of the waters in this state.

(3) Whoever violates this division (B) is guilty of vehicular vandalism. Except as otherwise provided in this division (B)(3), vehicular vandalism is a misdemeanor of the first degree. If the violation of this division (B) creates a substantial risk of physical harm to any person or the violation of this division (B) causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate state law. If the violation of this division (B) causes physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony to be prosecuted under appropriate state law. (R.C. § 2909.09) (Rev. 2003)

Statutory reference:

Disrupting public services, felony offense, see R.C. § 2909.04

Railroad grade crossing device vandalism, see R.C. § 2909.101

Railroad vandalism, see R.C. § 2909.10

Vandalism, felony offense, see R.C. § 2909.05

§ 131.04 CRIMINAL MISCHIEF.

(A) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

(a) In any manner or by any means, including but not limited to computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;

(b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(B) As used in this section, **SAFETY DEVICE** means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(C) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (C)(1) or (C)(2) of this section.

(1) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section creates a risk of physical harm to any person,

criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) of this section is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is \$1,000 or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(6) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.07) (Rev. 2005)

§ 131.05 DAMAGING OR ENDANGERING AIRCRAFT OR AIRPORT OPERATIONS.

(A) As used in this section:

AIR GUN. Means a hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide, or other gas.

AIRPORT OPERATIONAL SURFACE. Means any surface of land or water that is developed, posted, or marked so as to give an observer reasonable notice that the surface is designed and developed for the purpose of storing, parking, taxiing, or operating aircraft, or any surface of land or water that is actually being used for any of those purposes.

FIREARM. Has the same meaning as in R.C. § 2923.11.

SPRING-OPERATED GUN. Means a hand pistol or rifle that propels a projectile not less than four or more than five millimeters in diameter by means of a spring.

(B) No person shall do either of the following:

(1) Knowingly throw an object at, or drop an object upon, any moving aircraft.

(2) Knowingly shoot with a bow and arrow, or knowingly discharge a firearm, air gun, or spring-operated gun, at or toward any aircraft.

(C) No person shall knowingly or recklessly shoot with a bow and arrow, or shall knowingly or recklessly discharge a firearm, air gun, or spring-operated gun, upon or over any airport operational surface. This division does not apply to the following:

(1) An officer, agent, or employee of this or any other state or of the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of his or her duties.

(2) A person who, with the consent of the owner or operator of the airport operational surface or the authorized agent of either, is lawfully engaged in any hunting or sporting activity or is otherwise lawfully discharging a firearm.

(D) Whoever violates division (B) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates any risk of physical harm to any person, or if the aircraft that is the subject of the violation is occupied, endangering aircraft is a felony to be prosecuted under appropriate state law.

(E) Whoever violates division (C) of this section is guilty of endangering airport operations, a misdemeanor of the second degree. If the violation creates a risk of physical harm to any person or substantial risk of serious harm to any person, endangering airport operations is a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for the violation, the hunting license or permit of a person who violates division (C) of this section while hunting shall be suspended or revoked pursuant to R.C. § 1533.68.
(R.C. § 2909.08(A) - (E)) (Rev. 1999)

§ 131.06 CRIMINAL TRESPASS; AGGRAVATED TRESPASS.

(A) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized

access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when the authorization was secured by deception.

(D) (1) Whoever violates division (A) of this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(2) Notwithstanding R.C. § 2929.28, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section, R.C. § 2911.21 or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, R.C. § 4519.47 applies.

(E) Notwithstanding any provision of the Ohio Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the Clerk of the Court shall pay the fine imposed pursuant to this section to the State Recreational Vehicle Fund created by R.C. § 4519.11.

(F) As used in this section:

(1) *ALL-PURPOSE VEHICLE*, *OFF-HIGHWAY MOTORCYCLE*, and *SNOWMOBILE* have the same meanings as in R.C. § 4519.01.

(2) *LAND* or *PREMISES* includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
(R.C. § 2911.21) (Rev. 2010)

(G) Aggravated trespass.

(1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him or her.

(2) Whoever violates this division (G) is guilty of aggravated trespass, a misdemeanor of the first degree. (R.C. § 2911.211)

(H) Criminal trespass on a place of public amusement.

(1) As used in this division (H), **PLACE OF PUBLIC AMUSEMENT** means a stadium, theater, or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.

(2) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in division (H)(4)(a) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include but is not limited to a playing field, an athletic surface, or a stage located at the place of public amusement.

(3) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This division does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

(4) (a) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this division regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice

that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:

1. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;

2. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the place of public amusement is restricted.

(b) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in division (H)(4)(a) of this section, the municipality, in a criminal prosecution for a violation of division (H)(2) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.

(5) (a) Whoever violates division (H)(2) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.

(b) In addition to any jail term, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (H)(5)(a) of this section, a court may require an offender who violates this section to perform not less than 30 and not more than 120 hours of supervised community service work. (R.C. § 2911.23) (Rev. 2007)

Cross-reference:

Jurisdictional limitation on Mayor regarding violations of division (F) of this section, see § 33.01(E)
Violation of protection orders, see § 135.23

§ 131.07 TAMPERING WITH COIN MACHINES.

(A) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with, or insert any part of an instrument into any coin machine.

(B) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or of any theft offense as defined in R.C. § 2913.01, tampering with coin machines is a felony to be prosecuted under appropriate state law. (R.C. § 2911.32) (Rev. 1999)

§ 131.08 THEFT.

(A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(B) Whoever violates this section is guilty of theft. Except as otherwise provided in this division, a violation of this section is petty theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

- (1) If the value of the property or services is \$1,000 or more;
- (2) If the property stolen is any of the property listed in R.C. § 2913.71;
- (3) If the victim of the offense is an elderly person or disabled adult;
- (4) If the property stolen is a firearm or dangerous ordnance;
- (5) If the property stolen is a motor vehicle;
- (6) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense;
- (7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog; or
- (8) If the property stolen is anhydrous ammonia.

(C) In addition to the penalties described in division (B) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

(1) Unless division (C)(2) of this section applies, suspend for not more than six months the offenders driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;

(2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (C)(1) of this section, or any other substantially equivalent state or local law, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in R.C. § 4510.02(A)(7), provided that the suspension shall be at least six months.

(D) In addition to the penalties described in division (B) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to R.C. § 2929.18 or R.C. § 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of R.C. § 2913.72.

(E) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (C) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with R.C. Chapter 4510.
(R.C. § 2913.02) (Rev. 2012)

Statutory reference:

Felony theft provisions, see R.C. § 2913.02(B)

§ 131.09 UNAUTHORIZED USE OF A VEHICLE.

(A) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(B) No person shall knowingly use or operate an aircraft, motor vehicle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent, and either remove it from this state, or keep possession of it for more than 48 hours.

(C) The following are affirmative defenses to a charge under this section:

(1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that he or she was authorized to use or operate the property.

(2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(D) Whoever violates this section is guilty of unauthorized use of a vehicle.

(1) Except as otherwise provided in this division (D)(1), a violation of division (A) of this section is a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of division (A) of this section is a felony to be prosecuted under appropriate state law.

(2) A violation of division (B) of this section is a felony to be prosecuted under appropriate state law. (R.C. § 2913.03) (Rev. 2000)

Statutory reference:

Theft offense involving a motor vehicle, offender to pay towing and storage fees, see R.C. § 2913.82

§ 131.10 UNAUTHORIZED USE OF PROPERTY, INCLUDING TELECOMMUNICATION PROPERTY AND COMPUTERS; POSSESSION OF MUNICIPAL PROPERTY.

(A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(B) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.

(C) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to R.C. § 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the Law Enforcement Automated Data System Steering Committee.

(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to R.C. § 109.57(C)(1) without the consent of, or beyond the scope of the express or implied consent of, the

Superintendent of the Bureau of Criminal Identification and Investigation.

(E) The affirmative defenses contained in R.C. § 2913.03(C) are affirmative defenses to a charge under this section.

(F) Whoever violates division (A) of this section is guilty of unauthorized use of property. Except as otherwise provided in this division, unauthorized use of property is a misdemeanor of the fourth degree.

(1) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:

(a) Except as otherwise provided below, unauthorized use of property is a misdemeanor of the first degree.

(b) If the value of the property or services or the loss to the victim is \$1,000 or more, it is a felony to be prosecuted under appropriate state law.

(2) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate state law.

(G) Whoever violates division (B) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate state law.

(H) Whoever violates division (C) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate state law.

(I) Whoever violates division (D) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony to be prosecuted under appropriate state law.

(J) As used in this section:

CABLE OPERATOR. Means any person or group of persons that does either of the following:

(a) Provides cable service over a cable system and directly through one or more affiliates owns a significant interest in that cable system;

(b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

CABLE SERVICE. Means any of the following:

(a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;

(b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (a) of this definition;

(c) Any cable television service.

CABLE SYSTEM. Means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. The term does not include any of the following:

(a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) Any facility that serves subscribers without using any public right-of-way;

(c) Any facility of a common carrier that, under 47 U.S.C. § 522(7)(c), is excluded from the term “cable system” as defined in 47 U.S.C. § 522(7);

(d) Any open video system that complies with 47 U.S.C. § 573;

(e) Any facility of any electric utility used solely for operating its electric utility system.
(R.C. § 2913.04) (Rev. 2012)

(K) Possession of municipal property.

(1) No person shall, without being authorized, have in his or her control or possession any equipment, tools, implements or other property belonging to the municipality.
(R.C. § 5589.12)

(2) Whoever violates this division (K) is guilty of a minor misdemeanor.
(R.C. § 5589.99(B)) (Rev. 2002)

Statutory reference:

Telecommunications: fraud and unlawful use of a device, felony offenses, see R.C. §§ 2913.05 and 2913.06

§ 131.11 PASSING BAD CHECKS.

(A) As used in this section:

CHECK. Includes any form of debit from a demand deposit account, including but not limited to any of the following:

(a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

(b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

ISSUE A CHECK. Means causing any form of debit from a demand deposit account.

(B) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(C) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:

(1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(D) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with R.C. § 1349.16 by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:

(1) Falsely stating that he or she has not been issued a valid driver’s or commercial driver’s license or identification card issued under R.C. § 4507.50;

(2) Furnishing the license or card, or another identification document that contains false information;

(3) Making a false statement with respect to the drawer’s current address or any additional relevant information reasonably required by the financial institution.

(E) In determining the value of the payment for purposes of division (F) of this section, the court may aggregate all checks and other negotiable instruments that

the offender issued or transferred or caused to be issued or transferred in violation of division (B) of this section within a period of 180 consecutive days.

(F) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of \$1,000 or more, or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of \$1,500 or more, passing bad checks is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.11) (Rev. 2012)

§ 131.12 MISUSE OF CREDIT CARDS.

(A) No person shall do any of the following:

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(B) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.

(D) Whoever violates this section is guilty of misuse of credit cards.

(1) Except as otherwise provided in division (D)(3) of this section, a violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.

(2) Except as otherwise provided in this division or division (D)(3) of this section, a violation of division

(B)(2), (B)(3), or (B)(4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (B)(3), or (B)(4) of this section which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is \$1,000 or more, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(3) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (B)(1) or (B)(2) of this section, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.21) (Rev. 20122000)

§ 131.13 MAKING OR USING SLUGS.

(A) No person shall do any of the following:

(1) Insert or deposit a slug in a coin machine, with purpose to defraud;

(2) Make, possess, or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(B) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree.

(R.C. § 2913.33)

§ 131.14 PRIMA FACIE EVIDENCE OF PURPOSE TO DEFRAUD.

In a prosecution of a person for a theft offense that alleges that the person, with purpose to defraud or knowing that he or she was facilitating a fraud, hired or rented an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, kept or operated any of the same that has been hired or rented, or engaged accommodations at a hotel, motel, inn, campground, or other hostelry, it is prima facie evidence of purpose to defraud if the person did any of the following:

(A) Used deception to induce the rental agency to furnish the person with the aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, or used deception to induce the hostelry to furnish the person with accommodations;

(B) Hired or rented any aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy, or other property or equipment, or engaged accommodations, knowing that he or she is without sufficient means to pay the hire or rental;

(C) Absconded without paying the hire or rental;

(D) Knowingly failed to pay the hire or rental as required by the contract of hire or rental, without reasonable excuse for the failure;

(E) Knowingly failed to return hired or rented property as required by the contract of hire or rental, without reasonable excuse for the failure.
(R.C. § 2913.41) (Rev. 2001)

§ 131.15 TAMPERING WITH RECORDS.

(A) No person, knowing that he or she has no privilege to do so, and with purpose to defraud or knowing that he or she is facilitating a fraud, shall do any of the following:

(1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;

(2) Utter any writing or record, knowing it to have been tampered with as provided in division (A)(1) of this section.

(B) Whoever violates this section is guilty of tampering with records.

(1) Except as provided in division (B)(3) of this section, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

(a) If division (B)(1)(b) of this section does not apply, it is a misdemeanor of the first degree.

(b) If the writing or record is a will unrevoked at the time of the offense, it is a felony to be prosecuted under appropriate state law.

(2) Except as provided in division (B)(3) of this section, if the offense involves a violation of division (A) of this section involving data or computer software, tampering with records is whichever of the following is applicable:

(a) Except as otherwise provided in division (B)(2)(b) of this section, it is a misdemeanor of the first degree;

(b) If the value of the data or computer software involved in the offense or the loss to the victim is \$1,000 or more or if the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is \$7,500 or more, it is a felony to be prosecuted under appropriate state law.

(3) If the writing, data, computer software, or record is kept by or belongs to a local, state, or federal

governmental entity, it is a felony to be prosecuted under appropriate state law.
(R.C. § 2913.42) (Rev. 2012)

§ 131.16 SECURING WRITINGS BY DECEPTION.

(A) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(B) Whoever violates this section is guilty of securing writings by deception. Except as otherwise provided in this division, securing writings by deception is a misdemeanor of the first degree. If the value of the property or the obligation involved is \$1,000 or more, securing writings by deception is a felony to be prosecuted under appropriate to state law. If the victim of the offense is an elderly person or disabled adult, securing writings by deception is a felony to be prosecuted under appropriate state law.
(R.C. § 2913.43) (Rev. 2012)

§ 131.17 DEFRAUDING CREDITORS.

(A) No person, with purpose to defraud one or more of his or her creditors, shall do any of the following:

(1) Remove, conceal, destroy, encumber, convey, or otherwise deal with any of his or her property;

(2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage his or her affairs or estate, the existence, amount, or location of any of his or her property, or any other information regarding the property which he or she is legally required to furnish to the fiduciary.

(B) Whoever violates this section is guilty of defrauding creditors. Except as otherwise provided in this division, defrauding creditors is a misdemeanor of the first degree. If the value of the property involved is \$1,000 or more, defrauding creditors is a felony to be prosecuted under appropriate state law.
(R.C. § 2913.45) (Rev. 2012)

§ 131.18 RECEIVING STOLEN PROPERTY.

(A) No person shall receive, retain, or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(B) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(C) Whoever violates this section is guilty of receiving stolen property. Except as otherwise provided in this division, receiving stolen property is a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

(1) The value of the property involved is \$1,000 or more;

(2) The property involved is any of the property listed in R.C. § 2913.71;

(3) The property involved is a firearm or dangerous ordnance, as defined in R.C. § 2923.11;

(4) The property involved is a motor vehicle as defined in R.C. § 4501.01; or

(5) The property involved is any dangerous drug, as defined in R.C. § 4729.01.

(R.C. § 2913.51) (Rev. 2012)

§ 131.19 VALUE OF STOLEN PROPERTY.

(A) If more than one item of property or services is involved in a theft offense or in a violation of R.C. § 1716.14(A) involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance, the value of the property or services involved for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property or services involved in the offense.

(B) (1) When a series of offenses under R.C. § 2913.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of R.C. § 1716.14(A), R.C. § 2913.02, 2913.03, or 2913.04, R.C. § 2913.21(B)(1) or (B)(2), or R.C. § 2913.31 or 2913.43 involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance to any of these offenses, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property and services involved in all offenses in the series.

(2) If an offender commits a series of offenses under R.C. § 2913.02 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of R.C. § 1716.14(A), R.C. § 2913.02, 2913.03, or 2913.04, R.C. § 2913.21(B)(1) or (B)(2), or R.C. § 2913.31 or 2913.43, whether committed against one victim or more than one victim, involving a victim who is

an elderly person or disabled adult, or any substantially equivalent municipal ordinance to any of these offenses, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

(3) When a series of two or more offenses under R.C. § 2913.40, 2913.48, or 2921.41 is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the series of two or more offenses.

(4) In prosecuting a single offense under division (B)(1), (B)(2) or (B)(3) of this section, it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses or violations of R.C. § 2913.40, 2913.48, or 2921.41 in the offender's same employment, capacity, or relationship to another as described in division (B)(1) or (B)(3) of this section, or committed one or more theft offenses that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in division (B)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under division (B)(1), (B)(2), or (B)(3) of this section, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.

(C) The following criteria shall be used in determining the value of property or services involved in a theft offense:

(1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that has intrinsic worth to its owner and that either is irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, is the amount which would compensate the owner for its loss.

(2) The value of personal effects and household goods, and of materials, supplies, equipment, and fixtures used in the profession, business, trade, occupation, or avocation of its owner, which property is not covered under division (C)(1) of this section, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.

(3) The value of any real or personal property that is not covered under division (C)(1) or (C)(2) of this section, and the value of services, is the fair market value of the property or services. As used in this section, **FAIR MARKET VALUE** is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(D) Without limitation on the evidence which may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima facie evidence of its value.

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest marked quotation prior to the offense, is prima facie evidence of the value of the security or commodity.

(3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima facie evidence of the value of the livestock, poultry, or products.

(4) When the property involved is a negotiable instrument, the face value is prima facie evidence of the value of the instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima facie evidence of the value of the instrument.

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token, or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services which may be received by the instrument is prima facie evidence of the value of the instrument.

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping, or other services for which the rate is established by law, the duly established rate is prima facie evidence of the value of the services.

(8) When the services involved are services for which the rate is not established by law, and the offender

has been notified prior to the offense of the rate for the services, either in writing, or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima facie evidence of the value of the services.

(R.C. § 2913.61(B) - (E)) (Rev. 2001)

§ 131.20 DEGREE OF OFFENSE WHEN CERTAIN PROPERTY INVOLVED.

Regardless of the value of the property involved, and regardless of whether the offender previously has been convicted of a theft offense, a violation of § 131.08 or § 131.18 is a felony to be prosecuted under appropriate state law if the property involved is any of the following:

(A) A credit card;

(B) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

(C) A motor vehicle identification license plate as prescribed by R.C. § 4503.22, a temporary license placard or windshield sticker as prescribed by R.C. § 4503.182, or any comparable license plate, placard, or sticker as prescribed by the applicable law of another state or the United States;

(D) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by R.C. § 4505.07;

(E) A blank form for any license listed in R.C. § 4507.01.

(R.C. § 2913.71)

§ 131.21 INJURING VINES, BUSHES, TREES, OR CROPS.

(A) No person, without privilege to do so, shall recklessly cut down, destroy, girdle, or otherwise injure a vine, bush, shrub, sapling, tree, or crop standing or growing on the land of another or upon public land.

(B) In addition to the penalty provided in division (C) of this section, whoever violates this section is liable in treble damages for the injury caused.

(R.C. § 901.51)

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 901.99(A))

§ 131.22 DETENTION AND ARREST OF SHOPLIFTERS AND THOSE COMMITTING MOTION PICTURE PIRACY; PROTECTION OF INSTITUTIONAL PROPERTY.

(A) As used in this section:

ARCHIVAL INSTITUTION. Means any public or private building, structure, or shelter in which are stored historical documents, devices, records, manuscripts, or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for, or knowledge concerning the materials.

AUDIOVISUAL RECORDING FUNCTION. Has the same meaning as in R.C. § 2913.07.

FACILITY. Has the same meaning as in R.C. § 2913.07.

MUSEUM. Means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.

PRETRIAL DIVERSION PROGRAM. Means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this state.

(B) A merchant, or an employee or agent of a merchant, who has probable cause to believe that things offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in division (D) below, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(C) Any officer, employee, or agent of a library, museum, or archival institution may, for the purposes set forth in division (D) below or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in divisions (C)(1) and (C)(2) below, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of, the library, museum, or archival institution, if the officer, employee, or agent has probable cause to believe that the person has:

(1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed, or otherwise improperly tampered with property owned by or in the custody of the library, museum, or archival institution; or

(2) With purpose to deprive the library, museum, or archival institution of property owned by it or

in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(D) An officer, agent, or employee of a library, museum, or archival institution pursuant to division (C) above or a merchant or an employee or agent of a merchant pursuant to division (B) above may detain another person for any of the following purposes:

(1) To recover the property that is the subject of the unlawful taking, criminal mischief, or theft;

(2) To cause an arrest to be made by a peace officer;

(3) To obtain a warrant of arrest;

(4) To offer the person, if the person is suspected of the unlawful taking, criminal mischief, or theft and notwithstanding any other provision of this Code or the Ohio Revised Code, an opportunity to complete a pretrial diversion program and to inform the person of the other legal remedies available to the library, museum, archival institution, or merchant.

(E) The owner or lessee of a facility in which a motion picture is being shown, or the owner's or lessee's employee or agent, who has probable cause to believe that a person is or has been operating an audiovisual recording function of a device in violation of R.C. § 2917.07 may, for the purpose of causing an arrest to be made by a peace officer or of obtaining an arrest warrant, detain the person in a reasonable manner for a reasonable length of time within the facility or its immediate vicinity.

(F) The officer, agent, or employee of the library, museum, or archival institution, the merchant or an employee or agent of a merchant, or the owner, lessee, employee, or agent of the facility acting under divisions (B), (C) or (E) above shall not search the person detained, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(G) Any peace officer may arrest without a warrant any person that the officer has probable cause to believe has committed any act described in divisions (C)(1) or (C)(2) above, that the officer has probable cause to believe has committed an unlawful taking in a mercantile establishment, or that the officer has reasonable cause to believe has committed an act prohibited by R.C. § 2913.07. An arrest under this division shall be made within a reasonable time after the commission of the act or unlawful taking. (R.C. § 2935.041) (Rev. 2012)

Statutory reference:

Arrest without a warrant generally, see R.C. § 2935.03
Probable cause, see R.C. § 2933.22

§ 131.23 INSURANCE FRAUD; WORKERS' COMPENSATION FRAUD; MEDICAID FRAUD.

(A) *Insurance fraud.*

(1) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

(a) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;

(b) Assist, aid, abet, solicit, procure, or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(2) Whoever violates this division (A) is guilty of insurance fraud. Except as otherwise provided in this division, insurance fraud is a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is \$1,000 or more, insurance fraud is a felony to be prosecuted under appropriate state law.

(3) This division (A) shall not be construed to abrogate, waive, or modify R.C. § 2317.02(A).

(4) As used in this division (A):

DATA. Has the same meaning as in R.C. § 2913.01 and additionally includes any other representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner.

DECEPTIVE. Means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information, or by any other conduct, act, or omission creates, confirms, or perpetuates a false impression, including but not limited to a false impression as to law, value, state of mind, or other objective or subjective fact.

INSURER. Means any person that is authorized to engage in the business of insurance in this state under R.C. Title 39, the Ohio Fair Plan Underwriting Association created under R.C. § 3929.43, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.

POLICY. Means a policy, certificate, contract, or plan that is issued by an insurer.

STATEMENT. Includes but is not limited to any notice, letter, or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account, or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical, or dental chart or other record; x-ray, photograph, videotape, or movie film; test result; other evidence of loss, injury, or expense; computer-generated document; and data in any form.

(R.C. § 2913.47) (Rev. 2012)

(B) *Workers' compensation fraud.*

(1) No person, with purpose to defraud or knowing that the person is facilitating a fraud shall do any of the following:

(a) Receive workers' compensation benefits to which the person is not entitled;

(b) Make or present or cause to be made or presented a false or misleading statement with the purpose to secure payment for goods or services rendered under R.C. Chapter 4121, 4123, 4127, or 4131 or to secure workers' compensation benefits;

(c) Alter, falsify, destroy, conceal, or remove any record or document that is necessary to fully establish the validity of any claim filed with, or necessary to establish the nature and validity of all goods and services for which reimbursement or payment was received or is requested from the Bureau of Workers' Compensation, or a self-insuring employer under R.C. Chapter 4121, 4123, 4127, or 4131;

(d) Enter into an agreement or conspiracy to defraud the Bureau or Workers' Compensation or a self-insuring employer by making or presenting or causing to be made or presented a false claim for workers' compensation benefits;

(e) Make or present or cause to be made or presented a false statement concerning manual codes, classification or employees, payroll, paid compensation, or number of personnel, when information of that nature is necessary to determine the actual workers' compensation premium or assessment owed to the Bureau by an employer;

(f) Alter, forge, or create a workers' compensation certificate or falsely show current or correct workers' compensation coverage;

(g) Fail to secure or maintain workers' compensation coverage as required by R.C. Chapter 4123 with the intent to defraud the Bureau of Workers' Compensation.

(2) Whoever violates this division (B) is guilty of workers' compensation fraud. Except as otherwise provided in this division, workers' compensation fraud is a misdemeanor of the first degree. If the value of premiums

and assessments unpaid pursuant to actions described in divisions (B)(1)(e), (B)(1)(f), or (B)(1)(g) of this section, or goods, services, property, or money stolen is \$1,000 or more, workers' compensation fraud is a felony to be prosecuted under appropriate state law.

(3) Upon application of the governmental body that conducted the investigation and prosecution of a violation of this division (B), the court shall order the person who is convicted of the violation to pay the governmental body its costs of investigating and prosecuting the case. These costs are in addition to any other costs or penalty provided under federal, state or local law.

(4) The remedies and penalties provided in this division (B) are not exclusive remedies and penalties and do not preclude the use of any other criminal or civil remedy or penalty for any act that is in violation of this division (B).

(5) As used in this division (B):

CLAIM. Means any attempt to cause the Bureau of Workers' Compensation, an independent third party with whom the administrator or an employer contracts under R.C. § 4121.44, or a self-insuring employer to make payment or reimbursement for workers' compensation benefits.

EMPLOYEE. Has the same meaning as in R.C. § 4123.01.

EMPLOYER. Has the same meaning as in R.C. § 4123.01.

EMPLOYMENT. Means participating in any trade, occupation, business, service, or profession for substantial gainful remuneration.

FALSE. Means wholly or partially untrue or deceptive.

GOODS. Includes but is not limited to medical supplies, appliances, rehabilitative equipment, and any other apparatus or furnishing provided or used in the care, treatment, or rehabilitation of a claimant for workers' compensation benefits.

RECORDS. Means any medical, professional, financial, or business record relating to the treatment or care of any person, to goods or services provided to any person, or to rates paid for goods or services provided to any person, or any record that the administrator of workers' compensation requires pursuant to rule.

REMUNERATION. Includes but is not limited to wages, commissions, rebates, and any other reward or consideration.

SELF-INSURING EMPLOYER. Has the same meaning as in R.C. § 4123.01.

SERVICES. Includes but is not limited to any service provided by any health care provider to a claimant for workers' compensation benefits and any and all services provided by the Bureau as part of workers' compensation insurance coverage.

STATEMENT. Includes but is not limited to any oral, written, electronic, electronic impulse, or magnetic communication notice, letter, memorandum, receipt for payment, invoice, account, financial statement, or bill for services; a diagnosis, prognosis, prescription, hospital, medical, or dental chart or other record; and a computer generated document.

WORKERS' COMPENSATION BENEFITS. Means any compensation or benefits payable under R.C. Chapter 4121, 4123, 4127, or 4131. (R.C. § 2913.48) (Rev. 2012)

(C) *Medicaid fraud.*

(1) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(2) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(a) Contrary to the terms of the person's provider agreement, charge, solicit, accept or receive for goods or services that the person provides under the medical assistance program any property, money or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any cost-sharing expenses authorized by R.C. § 5111.0112 or rules adopted pursuant to R.C. § 5111.01, 5111.011, or 5111.02.

(b) Solicit, offer or receive any remuneration, other than any cost-sharing expenses authorized by R.C. § 5111.0112 or rules adopted under R.C. § 5111.01, 5111.011, or 5111.02, in cash or in kind, including but not limited to a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(3) No person, having submitted a claim for or provided goods or services under the medical assistance program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medical assistance program:

(a) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person; or

(b) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(4) Whoever violates this division (C) is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of the property, services or funds obtained in violation of this section is \$1,000 or more, medicaid fraud is a felony to be prosecuted under appropriate State law.

(5) Upon application of the governmental agency, office or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medical assistance program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, R.C. § 2913.40 or 5111.03, or any other provision of law.

(6) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.

(7) As used in this division (C):

MEDICAL ASSISTANCE PROGRAM.

Means the program established by the Ohio Department of Job and Family Services to provide medical assistance under R.C. § 5111.01 and the Medicaid program of Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. § 301, as amended.

PROVIDER. Means any person who has signed a provider agreement with the Ohio Department of Job and Family Services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program.

PROVIDER AGREEMENT. Means an oral or written agreement between the Ohio Department of Job and Family Services and a person in which the person agrees to provide goods or services under the medical assistance program.

RECIPIENT. Means any individual who receives goods or services from a provider under the medical assistance program.

RECORDS. Means any medical, professional, financial or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient, and any records that are required by the rules of the Ohio Director of Job and Family Services to be kept for the medical assistance program.

STATEMENT or REPRESENTATION. Means any oral, written, electronic, electronic impulse or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program. (R.C. § 2913.40) (Rev. 2012)

(D) *Medicaid eligibility fraud.*

(1) No person shall knowingly do any of the following in an application for medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive medicaid benefits:

(a) Make or cause to be made a false or misleading statement;

(b) Conceal an interest in property;

(c) 1. Except as provided in division (D)(1)(c)2. of this section, fail to disclose a transfer of property that occurred during the period beginning 36 months before submission of the application or document and ending on the date the application or document was submitted;

2. Fail to disclose a transfer of property that occurred during the period beginning 60 months before submission of the application or document and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for medicaid benefits or the recipient of medicaid benefits or to a revocable trust.

(2) (a) Whoever violates this division (D) is guilty of medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this division (D) is a misdemeanor of the first degree. If the value of the medicaid benefits paid as a result of the violation is \$1,000 or more, a violation of this division (D) is a felony to be prosecuted under appropriate state law.

(b) In addition to imposing a sentence under division (D)(2)(a) of this section, the court shall order that a person who is guilty of medicaid eligibility fraud make restitution in the full amount of any medicaid benefits paid on behalf of an applicant for or recipient of medicaid benefits for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on

unreimbursed amounts from the date on which the benefits were paid to the date on which restitution is made.

(c) The remedies and penalties provided in this division (D) are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this division (D).

(3) This division (D) does not apply to a person who fully disclosed in an application for medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive medicaid benefits all of the interests in property of the applicant for or recipient of medicaid benefits, all transfers of property by the applicant for or recipient of medicaid benefits, and the circumstances of all those transfers.

(4) Any amounts of medicaid benefits recovered as restitution under this division (D) and any interest on those amounts shall be credited to the General Revenue Fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

(5) As used in this division (D):

MEDICAID BENEFITS. Means benefits under the medical assistance program established under R.C. Chapter 5111.

PROPERTY. Means any real or personal property or other asset in which a person has any legal title or interest.
(R.C. § 2913.401) (Rev. 2012)

§ 131.24 INJURY TO PROPERTY BY HUNTERS.

(A) No person in the act of hunting, pursuing, taking, or killing a wild animal shall act in a negligent, careless, or reckless manner so as to injure property.
(R.C. § 1533.171(A)) (Rev. 1999)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 1533.99(C))

Statutory reference:

Violation, license revocation, see R.C. § 1533.171(B) through (E)

§ 131.25 EVIDENCE OF INTENT TO COMMIT THEFT OF RENTED PROPERTY OR RENTAL SERVICES; EVIDENCE OF LACK OF CAPACITY TO CONSENT.

(A) *Evidence of intent to commit theft of rented property or rental services.*

(1) As used in this division (A):

RENTER. Means a person who owns rented property.

RENTEE. Means a person who pays consideration to a renter for the use of rented property.

(2) Each of the following shall be considered evidence of intent to commit theft of rented property or rental services:

(a) At the time of entering into the rental contract, the rentee presented the renter with identification that was materially false, fictitious, or not current with respect to name, address, place of employment, or other relevant information.

(b) After receiving a notice demanding the return of the rented property as provided in division (A)(3) of this section, the rentee neither returned the rented property nor made arrangements acceptable with the renter to return the rented property.

(3) To establish that a rentee has an intent to commit theft of rented property or rental services under division (A)(2)(b) above, a renter may issue a notice to a rentee demanding the return of the rented property. The renter shall mail the notice by certified mail, return receipt requested, to the rentee at the address the rentee gave when the rental contract was executed, or to the rentee at the last address the rentee or the rentee's agent furnished in writing to the renter.

(4) A demand for the return of the rented property is not a prerequisite for the prosecution of a rentee for theft of rented property or rental services. The evidence specified in division (A)(2) above does not constitute the only evidence that may be considered as evidence of intent to commit theft of rented property or rental services.
(R.C. § 2913.72) (Rev. 2010)

(B) *Evidence of lack of capacity to consent.*

(1) In a prosecution for any alleged violation of § 131.08 through 131.20, 131.23, 131.25 through 131.29, or 132.11, if the lack of consent of the victim is an element of the provision that allegedly was violated, evidence that, at the time of the alleged violation, the victim lacked the capacity to give consent is admissible to show that the victim did not give consent.

(2) As used in this section, **LACKS THE CAPACITY TO CONSENT** means being impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person or the person's resources.
(R.C. § 2913.73) (Rev. 2008)

§ 131.26 FORGERY OF IDENTIFICATION CARDS.

(A) No person shall knowingly do either of the following:

(1) Forge an identification card.

(2) Sell or otherwise distribute a card that purports to be an identification card, knowing it was forged.

(B) As used in this section, **IDENTIFICATION CARD** means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words “identity,” “identification,” “identification card,” or other similar words appear on the card.

(C) Whoever violates this section is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this division, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (A) of this section or a substantially equivalent state law or municipal ordinance, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine not less than \$250.

(R.C. § 2913.31(B), (C)(2)) (Rev. 2000)

Statutory reference:

Forgery, felony provisions, see R.C. § 2913.31(A) and (C)(1)

Forgery of originating address or other routing information in connection with the transmission of an electronic mail advertisement, felony provisions, see R.C. § 2307.64

§ 131.27 CRIMINAL SIMULATION.

(A) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

(1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess.

(2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape.

(3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork or cap prescribed by the Liquor Control Commission under R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork or cap prescribed by the Liquor

Control Commission under R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork or cap prescribed by the Liquor Control Commission under R.C. Chapters 4301 and 4303.

(4) Offer, or possess with the purpose to offer, any object that the person knows to have been simulated as provided in divisions (A)(1), (A)(2) or (A)(3) of this section.

(B) Whoever violates this section is guilty of criminal simulation. Except as otherwise provided in this division, criminal simulation is a misdemeanor of the first degree. If the loss to the victim is \$1,000 or more, criminal simulation is a felony to be prosecuted under appropriate state law. (R.C. § 2913.32) (Rev. 2012)

§ 131.28 PERSONATING AN OFFICER.

(A) No person, with purpose to defraud or knowing that he or she is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator, or agent of any governmental agency.

(B) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (R.C. § 2913.44)

Cross-reference:

Impersonating an officer (non-fraud offense), see § 132.12

§ 131.29 TRADEMARK COUNTERFEITING.

(A) No person shall knowingly do any of the following:

(1) Attach, affix, or otherwise use a counterfeit mark in connection with the manufacture of goods or services, whether or not the goods or services are intended for sale or resale.

(2) Possess, sell, or offer for sale tools, machines, instruments, materials, articles, or other items of personal property with the knowledge that they are designed for the production or reproduction of counterfeit marks.

(3) Purchase or otherwise acquire goods, and keep or otherwise have the goods in the person's possession, with the knowledge that a counterfeit mark is attached to, affixed to, or otherwise used in connection with the goods and with the intent to sell or otherwise dispose of the goods.

(4) Sell, offer for sale, or otherwise dispose of goods with the knowledge that a counterfeit mark is attached to, affixed to, or otherwise used in connection with the goods.

(5) Sell, offer for sale, or otherwise provide services with the knowledge that a counterfeit mark is used in connection with that sale, offer for sale, or other provision of the services.

(B) Whoever violates this section is guilty of trademark counterfeiting.

(1) A violation of division (A)(1) of this section is guilty of a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division, a violation of division (A)(2) of this section is a misdemeanor of the first degree. If the circumstances of the violation indicate that the tools, machines, instruments, materials, articles, or other items of personal property involved in the violation were intended for use in the commission of a felony, a violation of division (A)(2) is a felony to be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division, a violation of division (A)(3), (A)(4) or (A)(5) of this section is a misdemeanor of the first degree. If the cumulative sales price of the goods or services to which or in connection with which the counterfeit mark is attached, affixed or otherwise used in the offense is \$1,000 or more, a violation of division (A)(3), (A)(4) or (A)(5) is a felony to be prosecuted under appropriate state law.

(C) A defendant may assert as an affirmative defense to a charge of a violation of this section defenses, affirmative defenses, and limitations on remedies that would be available in a civil, criminal or administrative action or proceeding under the Lanham Act, being 15 U.S.C. §§ 1051 through 1127, as amended, the Trademark Counterfeiting Act of 1984, being 18 U.S.C. § 2320, as amended, R.C. Chapter 1329 or another section of the Ohio Revised Code, or common law.

(D) (1) Law enforcement officers may seize pursuant to Criminal Rule 41, R.C. Chapter 2933, or R.C. Chapter 2981 either of the following:

(a) Goods to which or in connection with which a person attached, affixed, otherwise used, or intended to attach, affix or otherwise use a counterfeit mark in violation of this section.

(b) Tools, machines, instruments, materials, articles, vehicles or other items of personal property that are possessed, sold, offered for sale, or used in a violation of this section or in an attempt to commit or complicity in the commission of a violation of this section.

(2) Notwithstanding any contrary provision of R.C. Chapter 2981, if a person is convicted of or pleads guilty to a violation of this section, an attempt to violate this section, or complicity in a violation of this section, the court involved shall declare that the goods described in division (D)(1)(a) of this section and the personal property described

in division (D)(1)(b) of this section are contraband and are forfeited. Prior to the court's entry of judgment under Criminal Rule 32, the owner of a registered trademark or service mark that is the subject to the counterfeit mark may recommend a manner in which the forfeited goods and forfeited personal property should be disposed of. If that owner makes a timely recommendation of a manner of disposition, the court is not bound by the recommendation. If that owner makes a timely recommendation of a manner of disposition, the court may include in its entry of judgment an order that requires appropriate persons to dispose of the forfeited goods and forfeited personal property in the recommended manner. If the owner fails to make a timely recommendation of a manner of disposition or if that owner makes a timely recommendation of a manner of disposition but the court determines to not follow the recommendation, the court shall include in its entry of judgement an order that requires the law enforcement agency that employs the law enforcement officer who seized the forfeited goods or the forfeited personal property to destroy them or cause their destruction.

(E) This section does not affect the rights of an owner of a trademark or service mark, or the enforcement in a civil action or in administrative proceedings of the rights of an owner or a trademark or service mark under the Lanham Act, being 15 U.S.C. §§ 1051 through 1127, as amended, the Trademark Counterfeiting Act of 1984, being 18 U.S.C. § 2320, as amended, R.C. Chapter 1329, or another section of the Ohio Revised Code, or common law.

(F) As used in this section:

COUNTERFEIT MARK.

(a) Except as provided in division (b) of this definition, the term means a spurious trademark or a spurious service mark that satisfies both of the following:

1. It is identical with or substantially indistinguishable from a mark that is registered on the principal register in the United States Patent and Trademark Office for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used, or from a mark that is registered with the Secretary of State pursuant to R.C. §§ 1329.54 through 1329.67 for the same goods or services as the goods or services to which or in connection with which the spurious trademark or spurious service mark is attached, affixed, or otherwise used, and the owner of the registration uses that registered trademark, whether or not the offender knows that the mark is registered in a manner described in this division (a)1.

2. Its use is likely to cause confusion or mistake or to deceive other persons.

(b) The term does not include a mark or other designation that is attached to, affixed to, or otherwise used in connection with goods or services if the holder of the

right to use the mark or other designation authorizes the manufacturer, producer, or vendor of those goods or services to attach, affix, or otherwise use the mark or other designation in connection with those goods or services at the time of their manufacture, production or sale.

CUMULATIVE SALES PRICE. Means the product of the lowest single unit sales price charged or sought to be charged by an offender for goods to which or in connection with which a counterfeit mark is attached, affixed, or otherwise used or of the lowest single service transaction price charged or sought to be charged by an offender for services in connection with which a counterfeit mark is used, multiplied by the total number of those goods or services, whether or not units of goods are sold or are in an offender's possession, custody or control.

REGISTERED TRADEMARK OR SERVICE MARK. Means a trademark or service mark that is registered in a manner described in division (a) of the definition of "counterfeit mark."

SERVICE MARK. Has the same meaning as in R.C. § 1329.54.

TRADEMARK. Has the same meaning as in R.C. § 1329.54.
(R.C. § 2913.34) (Rev. 2012)

§ 131.30 DIMINISHING OR INTERFERING WITH FORFEITABLE PROPERTY.

(A) No person shall destroy, damage, remove, or transfer property that is subject to forfeiture or otherwise take any action in regard to property that is subject to forfeiture with purpose to do any of the following:

(1) Prevent or impair the state's or political subdivision's lawful authority to take the property into its custody or control under R.C. Chapter 2981 or to continue holding the property under its lawful custody or control;

(2) Impair or defeat the court's continuing jurisdiction over the person and property;

(3) Devalue property that the person knows, or has reasonable cause to believe, is subject to forfeiture proceedings under R.C. Chapter 2981.

(B) Whoever violates this section is guilty of interference with or diminishing forfeitable property. Except as otherwise provided in this division (B), interference with or diminishing forfeitable property is a misdemeanor of the first degree. If the value of the property is \$1,000 or more, interference with or diminishing forfeitable property is a felony to be prosecuted under appropriate state law.
(R.C. § 2981.07) (Rev. 2012)

§ 131.31 RECORDING CREDIT CARD, TELEPHONE OR SOCIAL SECURITY NUMBERS.

(A) No person shall record or cause to be recorded either of the following:

(1) A credit card account number of the other party to a transaction, when a check, bill of exchange or other draft is presented for payment; or

(2) The telephone number or Social Security account number of the other party to a transaction, when payment is made by credit card charge agreement, check, bill of exchange or other draft.

(B) Division (A) of this section does not apply to a transaction, if all of the following conditions are met:

(1) The credit card account number, Social Security account number or telephone number is recorded for a legitimate business purpose, including collection purposes.

(2) The other party to the transaction consents to the recording of the credit card account number, Social Security account number or telephone number.

(3) The credit card account number, Social Security account number or telephone number that is recorded during the course of the transaction is not disclosed to any third party for any purposes other than collection purposes and is not used to market goods or services unrelated to the goods or services purchased in the transaction.

(C) Nothing in this section prohibits the recording of the number of a credit card account when given in lieu of a deposit to secure payment in the event of default, loss, damage or other occurrence, or requires a person to accept a check presented for payment, if the other party to the transaction refuses to consent to the recording of the number of the party's Social Security account or license to operate a motor vehicle.
(R.C. § 1349.17)

(D) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.
(R.C. § 1349.99) (Rev. 2002)

§ 131.32 PROSECUTIONS FOR THEFT OF UTILITIES.

(A) In a prosecution for a theft offense, as defined in R.C. § 2913.01, that involves alleged tampering with a gas, electric, steam or water meter, conduit or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit or attachment of a utility has been tampered with is prima facie evidence that the person who is obligated to pay for the service rendered through the meter, conduit or

attachment, and who is in possession or control of the meter, conduit or attachment at the time the tampering occurred has caused the tampering with intent to commit a theft offense.

(B) In a prosecution for a theft offense, as defined in R.C. § 2913.01, that involves the alleged reconnection of a gas, electric, steam or water meter, conduit or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit or attachment disconnected by a utility has been reconnected without the consent of the utility is prima facie evidence that the person in possession or control of the meter, conduit or attachment at the time of the reconnection has reconnected the meter, conduit or attachment with intent to commit a theft offense.

(C) As used in this section:

TAMPER. Means to interfere with, damage or bypass a utility meter, conduit or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter.

UTILITY. Means any electric light company, gas company, natural gas company, pipe-line company, waterworks company or heating or cooling company, as defined in R.C. § 4905.03(A)(3), (A)(4), (A)(5), (A)(6), (A)(7), or (A)(8), its lessees, trustees or receivers, or any similar utility owned or operated by a political subdivision.
(R.C. § 4933.18) (Rev. 2011)

(D) Each electric light company, gas company, natural gas company, pipeline company, waterworks company or heating or cooling company, as defined by R.C. § 4905.03(A)(3), (A)(4), (A)(5), (A)(6), (A)(7), or (A)(8), or its lessees, trustees or receivers, and each similar utility owned or operated by a political subdivision, shall notify its customers, on an annual basis, that tampering with or bypassing a meter constitutes a theft offense that could result in the imposition of criminal sanctions.
(R.C. § 4933.19) (Rev. 2011)

§ 131.33 MOTION PICTURE PIRACY.

(A) As used in this section:

AUDIOVISUAL RECORDING FUNCTION.
Means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology existing on, or developed after, March 9, 2004.

FACILITY. Means a movie theater.

(B) No person, without the written consent of the owner or lessee of the facility and of the licensor of the motion picture, shall knowingly operate an audiovisual recording function of a device in a facility in which the motion picture is being shown.

(C) Whoever violates division (B) of this section is guilty of motion picture piracy, a misdemeanor of the first degree on the first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.

(D) This section does not prohibit or restrict a lawfully authorized investigative, law enforcement, protective, or intelligence gathering employee or agent of the government of this state or a political subdivision of this state, or of the federal government, when acting in an official capacity, from operating an audiovisual recording function of a device in any facility in which a motion picture is being shown.

(E) Division (B) of this section does not limit or affect the application of any other prohibition in this code or the Ohio Revised Code. Any act that is a violation of both division (B) of this section and another provision of this code or the Ohio Revised Code may be prosecuted under this section, under the other provision of this code or the Ohio Revised Code, or under both this section and the other provision of this code or the Ohio Revised Code.
(R.C. § 2913.07) (Rev. 2005)

CHAPTER 132: OFFENSES AGAINST PUBLIC PEACE

Section

- 132.01 Riot
- 132.02 Failure to disperse
- 132.03 Justifiable use of force to suppress riot
- 132.04 Disorderly conduct
- 132.05 Disturbing a lawful meeting
- 132.06 Misconduct at an emergency
- 132.07 Telecommunications harassment
- 132.08 Inducing panic
- 132.09 Making false alarms
- 132.10 Inciting to violence
- 132.11 Unlawful display of law enforcement emblem
- 132.12 Impersonating a peace officer
- 132.13 Safety of crowds attending live entertainment performances
- 132.14 Misconduct involving a public transportation system

Cross-reference:

Personating an officer (fraud offense), see § 131.28

Statutory reference:

Misuse of "Block Parent" or "McGruff House" symbol, see R.C. § 2917.46

§ 132.01 RIOT.

(A) No person shall participate with four or more others in a course of disorderly conduct in violation of R.C. § 2917.11 or a substantially equivalent municipal ordinance:

(1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

(2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede, or obstruct a function of government;

(3) With purpose to hinder, impede, or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at the institution.

(B) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though the act might otherwise be lawful.

(C) Whoever violates this section is guilty of riot, a misdemeanor of the first degree.
(R.C. § 2917.03) (Rev. 1999)

(D) For the purposes of prosecuting violations of this section, the prosecution is not required to allege or prove that the offender expressly agreed with four or more others to commit any act that constitutes a violation this section prior to or while committing those acts.

(R.C. § 2917.031) (Rev. 2005)

Statutory reference:

Aggravated riot, felony provisions, see R.C. § 2917.02

§ 132.02 FAILURE TO DISPERSE.

(A) Where five or more persons are participating in a course of disorderly conduct in violation of R.C. § 2917.11 or a substantially equivalent municipal ordinance, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance, or alarm, a law enforcement officer or other public official may order the participants and the other persons to disperse. No person shall knowingly fail to obey the order.

(B) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(C) (1) Whoever violates this section is guilty of failure to disperse.

(2) Except as otherwise provided in division (C)(3) of this section, failure to disperse is a minor misdemeanor.

(3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in division (A) of this section creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind.

(R.C. § 2917.04) (Rev. 2005)

§ 132.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

A law enforcement officer or firefighter engaged in suppressing a riot or in protecting persons or property during a riot:

(A) Is justified in using force, other than deadly force, when and to the extent he or she has probable cause to believe such force is necessary to disperse or apprehend rioters;

(B) Is justified in using force, including deadly force, when and to the extent he or she has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm to persons.
(R.C. § 2917.05)

§ 132.04 DISORDERLY CONDUCT.

(A) No person shall recklessly cause inconvenience, annoyance, or alarm to another, by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or an offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person;
- (3) Insulting, taunting, or challenging another, under circumstances in which that conduct is likely to provoke a violent response;
- (4) Hindering or preventing the movement of persons on a public street, road, highway, or right-of-way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(B) No person while voluntarily intoxicated shall do either of the following:

- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if he or she were not intoxicated, should know is likely to have such effect on others;
- (2) Engage in conduct or create a condition that presents a risk of physical harm to himself, herself or another, or to the property of another.

(C) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft, or other vehicle while under the influence of alcohol or any drug of abuse is not a violation of division (B) of this section.

(D) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that the person is voluntarily intoxicated for purposes of division (B) of this section.

(E) Whoever violates this section is guilty of disorderly conduct.

(1) Except as otherwise provided in division (E)(2) of this section, disorderly conduct is a minor misdemeanor.

(2) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:

(a) The offender persists in disorderly conduct after reasonable warning or request to desist.

(b) The offense is committed in the vicinity of a school or in a school safety zone.

(c) The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind.

(d) The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.

(F) As used in this section:

COMMITTED IN THE VICINITY OF A SCHOOL. Has the same meaning as in R.C. § 2925.01.

EMERGENCY FACILITY. Has the same meaning as in R.C. § 2909.04.

EMERGENCY FACILITY PERSON. Is the singular of "emergency facility personnel" as defined in R.C. § 2909.04.

EMERGENCY MEDICAL SERVICES PERSON. Is the singular of "emergency medical services personnel" as defined in R.C. § 2133.21.
(R.C. § 2917.11) (Rev. 2002)

§ 132.05 DISTURBING A LAWFUL MEETING.

(A) No person, with purpose to prevent or disrupt a lawful meeting, procession, or gathering, shall do either of the following:

(1) Do any act which obstructs or interferes with the due conduct of the meeting, procession, or gathering.

(2) Make any utterance, gesture, or display which outrages the sensibilities of the group.

(B) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree.
(R.C. § 2917.12)

§ 132.06 MISCONDUCT AT AN EMERGENCY.

(A) No person shall knowingly do any of the following:

(1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;

(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;

(3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(B) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(C) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this division, misconduct at an emergency is a misdemeanor of the fourth degree. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(D) As used in this section:

EMERGENCY FACILITY. Has the same meaning as in R.C. § 2909.04.

EMERGENCY FACILITY PERSON. Is the singular of "emergency facility personnel" as defined in R.C. § 2909.04.

EMERGENCY MEDICAL SERVICES PERSON. Is the singular of "emergency medical services personnel" as defined in R.C. § 2133.21. (R.C. § 2917.13) (Rev. 2005)

§ 132.07 TELECOMMUNICATIONS HARASSMENT.

(A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made, whether or not

actual communication takes place between the caller and a recipient.

(2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made.

(3) During the telecommunication, violates R.C. § 2903.21 or a substantially equivalent municipal ordinance.

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged.

(5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.

(B) No person shall make or cause to be made a telecommunication or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.

(C) (1) Whoever violates divisions (A) or (B) of this section is guilty of telecommunications harassment.

(2) A violation of division (A)(1), (A)(2), (A)(3) or (A)(5) or (B) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, which shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division (C)(3), a violation of division (A)(4) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, to be prosecuted under appropriate state law. If a violation of division (A)(4) of this section results in economic harm of \$1,000 or more, telecommunications harassment is a felony to be prosecuted under appropriate state law.

(D) No cause of action may be assessed in any court of this municipality against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunications service

or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.

(E) As used in divisions (A) through (D) of this section:

CALLER. Means the person described in division (A) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

ECONOMIC HARM. Means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. The term includes but is not limited to all of the following:

(a) All wages, salaries or other compensation lost as a result of the criminal conduct;

(b) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(c) The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;

(d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

SEXUAL ACTIVITY. Has the same meaning as in R.C. § 2907.01.

TELECOMMUNICATION. Has the same meaning as in R.C. § 2913.01.

TELECOMMUNICATIONS DEVICE. Has the same meaning as in R.C. § 2913.01.

(F) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 15 U.S.C. § 1692, as amended, or the

"Telephone Consumer Protection Act," 47 U.S.C. § 227, as amended.

(R.C. § 2917.21) (Rev. 2012)

§ 132.08 INDUCING PANIC.

(A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false.

(2) Threatening to commit any offense of violence.

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(B) Division (A)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(C) (1) Whoever violates this section is guilty of inducing panic.

(2) Except as otherwise provided in division (C)(3), inducing panic is a misdemeanor of the first degree.

(3) If a violation of this section results in physical harm to any person, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section results in economic harm of \$1,000 or more, inducing panic is a felony to be prosecuted under appropriate state law. If the public place involved in a violation of division (A)(1) is a school or an institution of higher education, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony to be prosecuted under appropriate state law.

(D) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Ohio Revised Code or this code may be prosecuted under this section, the other section, or both sections.

(E) As used in this section:

BIOLOGICAL AGENT. Has the same meaning as in R.C. § 2917.33.

ECONOMIC HARM. Means any of the following:

(a) All direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. "Economic harm" as described in this division includes but is not limited to all of the following:

1. All wages, salaries or other compensation lost as a result of the criminal conduct;

2. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

3. The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;

4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(b) All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or R.C. § 2917.32, or any substantially equivalent municipal ordinance, including but not limited to all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

EMERGENCY MEDICAL SERVICES PERSONNEL. Has the same meaning as in R.C. § 2133.21.

INSTITUTION OF HIGHER EDUCATION. Means any of the following:

(a) A state university or college as defined in R.C. § 3345.12(A)(1), community college, state community college, university branch, or technical college;

(b) A private, nonprofit college, university or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713;

(c) A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools pursuant to R.C. Chapter 3332.

SCHOOL. Means any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being

conducted at the time a violation of this section is committed.

WEAPON OF MASS DESTRUCTION. Means any of the following:

(a) Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or other precursors;

(b) Any weapon involving a disease organism or biological agent;

(c) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

(d) Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4) and regulations issued under that section:

1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;

2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (d)1. of this definition and from which an item or device described in that division may be readily assembled. (R.C. § 2917.31) (Rev. 2012)

§ 132.09 MAKING FALSE ALARMS.

(A) No person shall do any of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm.

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property.

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that the offense did not occur.

(B) This section does not apply to any person conducting an authorized fire or emergency drill.

(C) Whoever violates this section is guilty of making false alarms. Except as otherwise provided in this division,

making false alarms is a misdemeanor of the first degree. If a violation of this section results in economic harm of \$1,000 or more, making false alarms is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony to be prosecuted under appropriate state law.

(D) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Ohio Revised Code or this code may be prosecuted under this section, the other section, or both sections.

(E) As used in this section, *ECONOMIC HARM* and *WEAPON OF MASS DESTRUCTION* have the same meaning as in R.C. § 2917.31.
(R.C. § 2917.32) (Rev. 2012)

§ 132.10 INCITING TO VIOLENCE.

(A) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence when either of the following apply:

(1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed.

(2) The conduct proximately results in the commission of any offense of violence.

(B) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. If the offense of violence that the other person is being urged or incited to commit is a felony, inciting to violence is a felony to be prosecuted under appropriate state law.
(R.C. § 2917.01)

§ 132.11 UNLAWFUL DISPLAY OF LAW ENFORCEMENT EMBLEM.

(A) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(B) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement

agency or an organization of law enforcement officers, a minor misdemeanor.
(R.C. § 2913.441)

§ 132.12 IMPERSONATING A PEACE OFFICER.

(A) As used in this section:

FEDERAL LAW ENFORCEMENT OFFICER.

Means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

IMPERSONATE. Means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

INVESTIGATOR OF THE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION.
Has the same meaning as in R.C. § 2903.11.

PEACE OFFICER. A Sheriff, deputy sheriff, Marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state; a member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D); a member of a police force employed by a regional transit authority under R.C. § 306.35(Y); a state university law enforcement officer appointed under R.C. § 3345.04; a veterans' home police officer appointed under R.C. § 5907.02; a special police officer employed by a port authority under R.C. § 4582.04 or 4582.28; an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a state highway patrol trooper whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

PRIVATE POLICE OFFICER. Means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

(B) No person shall impersonate a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation, or federal law enforcement officer.

(C) No person, by impersonating a peace officer, private police officer, investigator of the Bureau of Criminal

Identification and Investigation, or federal law enforcement officer, shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or the state, or investigator of the Bureau of Criminal Identification and Investigation.

(E) No person shall commit a felony while impersonating a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or of the state, or investigator of the Bureau of Criminal Identification and Investigation.

(F) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or of the state, or investigator of the Bureau of Criminal Identification and Investigation was for a lawful purpose.

(G) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony to be prosecuted under appropriate state law. Whoever violates division (E) of this section is guilty of a felony to be prosecuted under appropriate state law. (R.C. § 2921.51) (Rev. 2010)

Cross-reference:

Personating an officer (fraud offense), see § 131.28

§ 132.13 SAFETY OF CROWDS ATTENDING LIVE ENTERTAINMENT PERFORMANCES.

(A) As used in this section:

CONCERT. Means a musical performance of which the primary component is a presentation by persons singing or playing musical instruments, that is intended by its sponsors mainly, but not necessarily exclusively, for the listening enjoyment of the audience, and that is held in a facility. The term does not include any performance in which music is a part of the presentation and the primary component of which is acting, dancing, a motion picture, a demonstration of skills or talent other than singing or playing an instrument, an athletic event, an exhibition or a speech.

FACILITY. Means any structure that has a roof or partial roof and that has walls that wholly surround the area on all sides, including but not limited to a stadium, hall, arena, armory, auditorium, ballroom, exhibition hall, convention center or music hall.

LIVE ENTERTAINMENT PERFORMANCE.

Means any live speech; any live musical performance, including a concert; any live dramatic performance; any live variety show; and any other live performance with respect to which the primary intent of the audience can be construed to be viewing the performers. The term does not include any form of entertainment with respect to which the person purchasing a ticket routinely participates in amusements as well as views performers.

PERSON. Includes, in addition to an individual or entity specified in R.C. § 1.59(C), any governmental entity.

RESTRICTED ENTERTAINMENT AREA.

Means any wholly or partially enclosed area, whether indoors or outdoors, that has limited access through established entrances or established turnstiles or similar devices.

(B) (1) No person shall sell, offer to sell, or offer in return for a donation, any ticket that is not numbered and that does not correspond to a specific seat for admission to either of the following:

(a) A live entertainment performance that is not exempted under division (D) of this section, that is held in a restricted entertainment area, and for which more than 8,000 tickets are offered to the public;

(b) A concert that is not exempted under division (D) of this section and for which more than 3,000 tickets are offered to the public.

(2) No person shall advertise any live entertainment performance as described in division (B)(1)(a) of this section or any concert as described in division (B)(1)(b) of this section, unless the advertisement contains the words "Reserved Seats Only."

(C) Unless exempted by division (D)(1) of this section, no person who owns or operates any restricted entertainment area shall fail to open, maintain and properly staff at least the number of entrances designated under division (E) of this section for a minimum of 90 minutes prior to the scheduled start of any live entertainment performance that is held in the restricted entertainment area and for which more than 3,000 tickets are sold, offered for sale or offered in return for a donation.

(D) (1) A live entertainment performance, other than a concert, is exempted from the provisions of divisions (B) and (C) of this section if both of the following apply:

(a) The restricted entertainment area in which the performance is held has at least eight entrances or, if both entrances and separate admission turnstiles or similar devices are used, has at least eight turnstiles or similar devices.

(b) The eight entrances or, if applicable, the eight turnstiles or similar devices, are opened, maintained and properly staffed at least one hour prior to the scheduled start of the performance.

(2) (a) The officer responsible for public safety in the municipality may, upon application of the sponsor of a concert covered by division (B) of this section, exempt the concert from the provisions of that division if such officer finds that the health, safety and welfare of the participants and spectators would not be substantially affected by failure to comply with the provisions of that division. In determining whether to grant an exemption, the officer shall consider the following factors: the size and design of the facility in which the concert is scheduled; the size, age and anticipated conduct of the crowd expected to attend the concert; and the ability of the sponsor to manage and control the expected crowd. If the sponsor of any concert desires to obtain an exemption under this division, the sponsor shall apply to the appropriate official on a form prescribed by that official. The official shall issue an order that grants or denies the exemption within five days after receipt of the application. The sponsor may appeal any order that denies an exemption to the Court of Common Pleas of the county in which the facility is located.

(b) If an official grants an exemption under division (D)(2)(a) of this section, the official shall designate an on-duty law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety and welfare of the participants and spectators.

(3) Notwithstanding division (D)(2) of this section, in the case of a concert held in a facility located on the campus of an educational institution covered by R.C. § 3345.04, a state university law enforcement officer appointed pursuant to R.C. §§ 3345.04 and 3345.21 shall do both of the following:

(a) Exercise the authority to grant exemptions provided by division (D)(2)(a) of this section in lieu of an official designated in that division;

(b) If the officer grants an exemption under division (D)(3)(a) of this section, designate an on-duty state university law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety and welfare of the participants and spectators.

(E) (1) Unless a live entertainment performance is exempted by division (D)(1) of this section, the officer responsible for public safety within the municipality shall designate, for purposes of division (C) of this section, the minimum number of entrances required to be opened, maintained and staffed at each live entertainment performance so as to permit crowd control and reduce congestion at the entrances. The designation shall be based on such factors as the size and nature of the crowd expected to attend the live entertainment performance, the length of

time prior to the live entertainment performance that crowds are expected to congregate at the entrances and the amount of security provided at the restricted entertainment area.

(2) Notwithstanding division (E)(1) of this section, a state university law enforcement officer appointed pursuant to R.C. §§ 3345.04 and 3345.21 shall designate the number of entrances required to be opened, maintained and staffed in the case of a live entertainment performance that is held at a restricted entertainment area located on the campus of an educational institution covered by R.C. § 3345.04.

(F) No person shall enter into any contract for a live entertainment performance that does not permit or require compliance with this section.

(G) (1) This section does not apply to a live entertainment performance held in a restricted entertainment area if one admission ticket entitles the holder to view or participate in three or more different games, rides, activities or live entertainment performances occurring simultaneously at different sites within the restricted entertainment area and if the initial admittance entrance to the restricted entertainment area, for which the ticket is required, is separate from the entrance to any specific live entertainment performance and an additional ticket is not required for admission to the particular live entertainment performance.

(2) This section does not apply to a symphony orchestra performance, a ballet performance, horse races, dances or fairs.

(H) This section does not prohibit the Legislative Authority from imposing additional requirements, not in conflict with the section, for the promotion or holding of live entertainment performances.

(I) Whoever violates division (B), (C) or (F) of this section is guilty of a misdemeanor of the first degree. If any individual suffers physical harm to the individual's person as a result of a violation of this section, the sentencing court shall consider this factor in favor of imposing a term of imprisonment upon the offender.
(R.C. § 2917.40) (Rev. 1999)

§ 132.14 MISCONDUCT INVOLVING A PUBLIC TRANSPORTATION SYSTEM.

(A) As used in this section, *PUBLIC TRANSPORTATION SYSTEM* means a county transit system operated in accordance with R.C. §§ 306.01 through 306.13, a regional transit authority operated in accordance with R.C. §§ 306.30 through 306.71, or a regional transit commission operated in accordance with R.C. §§ 306.80 through 306.90.

(B) No person shall evade the payment of the known fares of a public transportation system.

(C) No person shall alter any transfer, pass, ticket or token of a public transportation system with the purpose of evading the payment of fares or of defrauding the system.

(D) No person shall do any of the following while in any facility or on any vehicle of a public transportation system:

(1) Play sound equipment without the proper use of a private earphone;

(2) Smoke, eat or drink in any area where the activity is clearly marked as being prohibited; or

(3) Expectorate upon a person, facility or vehicle.

(E) No person shall write, deface, draw or otherwise mark on any facility or vehicle of a public transportation system.

(F) No person shall fail to comply with a lawful order of a public transportation system police officer, and no person shall resist, obstruct or abuse a public transportation police officer in the performance of the officer's duties.

(G) Whoever violates any of the provisions of this section is guilty of misconduct involving a public transportation system.

(1) A violation of division (B), (C), or (F) of this section is a misdemeanor of the fourth degree.

(2) A violation of division (D) of this section is a minor misdemeanor on a first offense. If a person previously has been convicted of or pleaded guilty to a violation of any division of this section or of a municipal ordinance that is substantially equivalent to any division of this section, a violation of division (D) of this section is a misdemeanor of the fourth degree.

(3) A violation of division (E) of this section is a misdemeanor of the third degree.

(H) Notwithstanding any other provision of law, 75% of each fine paid to satisfy a sentence imposed for a violation of any of the provisions of this section shall be deposited into the treasury of the County and 25% shall be deposited with the county transit board, regional transit authority or regional transit commission that operates the public transportation system involved in the violation, unless the Board of County Commissioners operates the public transportation system, in which case 100% of each fine shall be deposited into the treasury of the County.

(R.C. § 2917.41) (Rev. 2004)

