



## Ohio Revised Code

### Section 2935.041 Detention and arrest of shoplifters - detention of persons in library, museum, or archival institution.

Effective: September 30, 2011

Legislation: House Bill 86 - 129th General Assembly

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

(B) Any officer, employee, or agent of a library, museum, or archival institution may, for the purposes set forth in division (C) of this section or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in divisions (B)(1) and (2) of this section, 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 either:

(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.

(C) An officer, agent, or employee of a library, museum, or archival institution pursuant to division (B) of this section or a merchant or employee or agent of a merchant pursuant to division (A) of this section 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 the 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.

(D) 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 section 2913.07 of the Revised Code 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.

(E) The officer, agent, or employee of the library, museum, or archival institution, the merchant or employee or agent of a merchant, or the owner, lessee, employee, or agent of the facility acting under division (A), (B), or (D) of this section 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.

(F) Any peace officer may arrest without a warrant any person that the officer has probable cause to believe has committed any act described in division (B)(1) or (2) of this section, 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 section 2913.07 of the Revised Code. An arrest under this division shall be made within a reasonable time after the commission of the act or unlawful taking.

(G) As used in this section:

(1) "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.

(2) "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.

(3) "Audiovisual recording function" and "facility" have the same meaning as in section 2913.07 of the Revised Code.

(4) "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.