



## Ohio Revised Code

### Section 2981.01 Purposes of forfeiture.

Effective: April 6, 2017

Legislation: House Bill 347, Senate Bill 293 - 131st General Assembly

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(A) Forfeitures under this chapter shall be governed by all of the following purposes:

(1) To provide economic disincentives and remedies to deter and offset the economic effect of offenses by seizing and forfeiting contraband, proceeds, and certain instrumentalities;

(2) To ensure that seizures and forfeitures of instrumentalities are proportionate to the offense committed;

(3) To protect third parties from wrongful forfeiture of their property;

(4) To prioritize restitution for victims of offenses.

(B) As used in this chapter:

(1) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(2) "Computers," "computer networks," "computer systems," "computer software," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(3) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.

(4) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(5) "Innocent person" includes any bona fide purchaser of property that is subject to forfeiture, including any person who establishes a valid claim to or interest in the property in accordance with section 2981.04 of the Revised Code, and any victim of an alleged offense.



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

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

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

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

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

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

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense. "Proceeds" does not include property, including money or other means of exchange, if all of the following apply to that property:

(i) It is held under clear title by a law enforcement agency.

(ii) It is used or may be used to purchase contraband for the purpose of investigating any drug abuse



offense, as defined in section 2925.01 of the Revised Code.

(iii) If it is used to purchase contraband under division (B)(11)(a)(ii) of this section, the property continues to be considered the property of the law enforcement agency if the agency establishes a clear chain of custody of it.

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

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

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

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

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

(16) "Watercraft" has the same meaning as in section 1546.01 of the Revised Code.

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

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*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*