



## Ohio Revised Code

### Section 2981.06 Seizure of forfeited or other property - disposition.

Effective: April 6, 2017

Legislation: House Bill 347 - 131st General Assembly

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(A) Upon the entry of a forfeiture order under section 2981.04 or 2981.05 of the Revised Code, if necessary, the court shall order an appropriate law enforcement officer to seize the forfeited property on conditions that the court considers proper. If necessary, the court shall order the person in possession of the property to deliver the property by a specific date to the law enforcement agency involved in the initial seizure of the property. The court shall deliver the order by personal service or certified mail.

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

- (1) Enter any appropriate restraining orders or injunctions; require execution of satisfactory performance bonds; appoint receivers, conservators, appraisers, accountants, or trustees; or take any other action necessary to safeguard and maintain the forfeited property;
- (2) Authorize the payment of rewards to persons who provide information resulting in forfeiture of the property under this chapter from funds provided under division (F) of section 2981.12 of the Revised Code;
- (3) Authorize the prosecutor to settle claims;
- (4) Restore forfeited property to victims and grant petitions for mitigation or remission of forfeiture;
- (5) Authorize a stay of the forfeiture order pending appeal or resolution of any claim to the property if requested by a person other than the defendant or a person acting in concert with, or on behalf of, the defendant.



(C) To facilitate the identification and location of property that is the subject of a forfeiture order and to facilitate the disposition of petitions for remission or mitigation issued under this section, after the issuance of a forfeiture order and upon application by the prosecutor, the court, consistent with the Civil Rules, may order that the testimony of any witness relating to the forfeited property be taken by deposition and that any designated material that is not privileged be produced at the same time and place as the testimony.

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

(a) It cannot be located through due diligence.

(b) It has been transferred, sold, or deposited with an innocent or bona-fide third party.

(c) It has been placed beyond the jurisdiction of the court.

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

(2) If property that is subject to a forfeiture order under section 2981.04 or 2981.05 of the Revised Code has been transferred, sold, or deposited with a third party, the court shall order forfeiture of the transferred, sold, or deposited property instead of ordering the forfeiture of other property under division (D)(1) of this section if the state or political subdivision demonstrates by clear and convincing evidence that the transferred, sold, or deposited property was transferred, sold, or deposited in violation of section 2981.07 of the Revised Code.

(3) The requirements of divisions (D), (E), and (F) of section 2981.04 of the Revised Code or the requirements of divisions (F) and (G) of section 2981.05 of the Revised Code, whichever are applicable, apply to property forfeited under division (D)(1) or (2) of this section.

(E) After the state or political subdivision is granted clear title under section 2981.04 or 2981.05 of



the Revised Code, the prosecutor shall direct disposition of the property pursuant to this chapter, making due provisions for the rights of innocent persons.

(F) Any interest in property not exercisable by, or transferable for value to, the state or political subdivision shall expire and shall not revert to the offender or delinquent child who forfeited the property. The offender or delinquent child is not eligible to purchase the property at a sale under this chapter.

(G) Any income accruing to or derived from forfeited property may be used to offset ordinary and necessary expenses related to the property that are required by law or necessary to protect the interest of the state, political subdivision, or third parties.