



Ohio Revised Code

Section 4503.233 Immobilization orders.

Effective: July 1, 2017

Legislation: House Bill 26 - 132nd General Assembly

(A)(1) If a court is required to order the immobilization of a vehicle for a specified period of time pursuant to section 4510.11, 4510.14, 4510.161, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code, the court, subject to section 4503.235 of the Revised Code, shall issue the immobilization order in accordance with this division and for the period of time specified in the particular section, and the immobilization under the order shall be in accordance with this section. The court, at the time of sentencing the offender for the offense relative to which the immobilization order is issued or as soon thereafter as is practicable, shall give a copy of the order to the offender or the offender's counsel. The court promptly shall send a copy of the order to the registrar on a form prescribed by the registrar and to the person or agency it designates to execute the order.

The order shall indicate the date on which it is issued, shall identify the vehicle that is subject to the order, and shall specify all of the following:

(a) The period of the immobilization;

(b) The place at which the court determines that the immobilization shall be carried out, provided that the court shall not determine and shall not specify that the immobilization is to be carried out at any place other than a commercially operated private storage lot, a place owned by a law enforcement or other government agency, or a place to which one of the following applies:

(i) The place is leased by or otherwise under the control of a law enforcement or other government agency.

(ii) The place is owned by the offender, the offender's spouse, or a parent or child of the offender.

(iii) The place is owned by a private person or entity, and, prior to the issuance of the order, the private entity or person that owns the place, or the authorized agent of that private entity or person, has given express written consent for the immobilization to be carried out at that place.



(iv) The place is a public street or highway on which the vehicle is parked in accordance with the law.

(c) The person or agency designated by the court to execute the order, which shall be either the law enforcement agency that employs the law enforcement officer who seized the vehicle, a bailiff of the court, another person the court determines to be appropriate to execute the order, or the law enforcement agency with jurisdiction over the place of residence of the vehicle owner;

(d) That neither the registrar nor a deputy registrar will be permitted to accept an application for the license plate registration of any motor vehicle in the name of the vehicle owner until the immobilization fee is paid.

(2) The person or agency the court designates to immobilize the vehicle shall seize or retain that vehicle's license plates and forward them to the bureau of motor vehicles.

(3) In all cases, the offender shall be assessed an immobilization fee of one hundred dollars, and the immobilization fee shall be paid to the registrar before the vehicle may be released to the offender. Neither the registrar nor a deputy registrar shall accept an application for the registration of any motor vehicle in the name of the offender until the immobilization fee is paid.

(4) If the vehicle subject to the order is immobilized pursuant to the order and is found being operated upon any street or highway in this state during the immobilization period, it shall be seized, removed from the street or highway, and criminally forfeited and disposed of pursuant to section 4503.234 of the Revised Code.

(5) The registrar shall deposit the immobilization fee into the public safety - highway purposes fund created by section 4501.06 of the Revised Code to be expended only as provided in division (A)(5) of this section. If the court designated in the order a court bailiff or another appropriate person other than a law enforcement officer to immobilize the vehicle, the amount of the fee deposited into the public safety - highway purposes fund shall be paid out to the county treasury if the court that issued the order is a county court, to the treasury of the municipal corporation served by the court if the court that issued the order is a mayor's court, or to the city treasury of the legislative authority of the



court, both as defined in section 1901.03 of the Revised Code, if the court that issued the order is a municipal court. If the court designated a law enforcement agency to immobilize the vehicle and if the law enforcement agency immobilizes the vehicle, the amount of the fee deposited into the public safety - highway purposes fund shall be paid out to the law enforcement agency to reimburse the agency for the costs it incurs in obtaining immobilization equipment and, if required, in sending an officer or other person to search for and locate the vehicle specified in the immobilization order and to immobilize the vehicle.

In addition to the immobilization fee required to be paid under division (A)(3) of this section, the offender may be charged expenses or charges incurred in the removal and storage of the immobilized vehicle.

(B) If a court issues an immobilization order under division (A)(1) of this section, the person or agency designated by the court to execute the immobilization order promptly shall immobilize or continue the immobilization of the vehicle at the place specified by the court in the order. The registrar shall not authorize the release of the vehicle or authorize the issuance of new identification license plates for the vehicle at the end of the immobilization period until the immobilization fee has been paid.

(C) Upon receipt of the license plates for a vehicle under this section, the registrar shall destroy the license plates. At the end of the immobilization period and upon the payment of the immobilization fee that must be paid under this section, the registrar shall authorize the release of the vehicle and authorize the issuance, upon the payment of the same fee as is required for the replacement of lost, mutilated, or destroyed license plates and certificates of registration, of new license plates and, if necessary, a new certificate of registration to the offender for the vehicle in question.

(D)(1) If a court issues an immobilization order under division (A) of this section, the immobilization period commences on the day on which the vehicle in question is immobilized. If the vehicle in question had been seized under section 4510.41 or 4511.195 of the Revised Code, the time between the seizure and the beginning of the immobilization period shall be credited against the immobilization period specified in the immobilization order issued under division (A) of this section. No vehicle that is immobilized under this section is eligible to have restricted license plates under section 4503.231 of the Revised Code issued for that vehicle.



(2) If a court issues an immobilization order under division (A) of this section, if the vehicle subject to the order is immobilized under the order, and if the vehicle is found being operated upon any street or highway of this state during the immobilization period, it shall be seized, removed from the street or highway, and criminally forfeited, and disposed of pursuant to section 4503.234 of the Revised Code. No vehicle that is forfeited under this provision shall be considered contraband for purposes of Chapter 2981. of the Revised Code, but shall be held by the law enforcement agency that employs the officer who seized it for disposal in accordance with section 4503.234 of the Revised Code.

(3) If a court issues an immobilization order under division (A) of this section, and if the vehicle is not claimed within seven days after the end of the period of immobilization or if the offender has not paid the immobilization fee, the person or agency that immobilized the vehicle shall send a written notice to the offender at the offender's last known address informing the offender of the date on which the period of immobilization ended, that the offender has twenty days after the date of the notice to pay the immobilization fee and obtain the release of the vehicle, and that if the offender does not pay the fee and obtain the release of the vehicle within that twenty-day period, the vehicle will be forfeited under section 4503.234 of the Revised Code to the entity that is entitled to the immobilization fee.

(4) An offender whose motor vehicle is subject to an immobilization order issued under division (A) of this section shall not sell the motor vehicle without approval of the court that issued the order. If such an offender wishes to sell the motor vehicle during the immobilization period, the offender shall apply to the court that issued the immobilization order for permission to assign the title to the vehicle. If the court is satisfied that the sale will be in good faith and not for the purpose of circumventing the provisions of division (A)(1) of this section, it may certify its consent to the offender and to the registrar. Upon receipt of the court's consent, the registrar shall enter the court's notice in the offender's vehicle license plate registration record.

If, during a period of immobilization under an immobilization order issued under division (A) of this section, the title to the immobilized motor vehicle is transferred by the foreclosure of a chattel mortgage, a sale upon execution, the cancellation of a conditional sales contract, or an order of a court, the involved court shall notify the registrar of the action, and the registrar shall enter the



court's notice in the offender's vehicle license plate registration record.

Nothing in this section shall be construed as requiring the registrar or the clerk of the court of common pleas to note upon the certificate of title records any prohibition regarding the sale of a motor vehicle.

(5) If the title to a motor vehicle that is subject to an immobilization order under division (A) of this section is assigned or transferred without court approval between the time of arrest of the offender who committed the offense for which such an order is to be issued and the time of the actual immobilization of the vehicle, the court shall order that, for a period of two years from the date of the order, neither the registrar nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of the offender whose vehicle was assigned or transferred without court approval. The court shall notify the registrar of the order on a form prescribed by the registrar for that purpose.

(6) If the title to a motor vehicle that is subject to an immobilization order under division (A) of this section is assigned or transferred without court approval in violation of division (D)(4) of this section, then, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds from any fine so imposed shall be distributed in the same manner as the proceeds of the sale of a forfeited vehicle are distributed pursuant to division (C)(2) of section 4503.234 of the Revised Code.

(E)(1) The court with jurisdiction over the case, after notice to all interested parties including lienholders, and after an opportunity for them to be heard, if the offender fails to appear in person, without good cause, or if the court finds that the offender does not intend to seek release of the vehicle at the end of the period of immobilization or that the offender is not or will not be able to pay the expenses and charges incurred in its removal and storage, may order that title to the vehicle be transferred, in order of priority, first into the name of the entity entitled to the immobilization fee under division (A)(5) of this section, next into the name of a lienholder, or lastly, into the name of the owner of the place of storage.

A lienholder that receives title under a court order shall do so on the condition that it pay any



expenses or charges incurred in the vehicle's removal and storage. If the entity that receives title to the vehicle is the entity that is entitled to the immobilization fee under division (A)(5) of this section, it shall receive title on the condition that it pay any lien on the vehicle. The court shall not order that title be transferred to any person or entity other than the owner of the place of storage if the person or entity refuses to receive the title. Any person or entity that receives title may either keep title to the vehicle or may dispose of the vehicle in any legal manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The person or entity shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the person or entity assigns the motor vehicle to a salvage dealer or scrap metal processing facility, the person or entity shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The person or entity shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

(2) Whenever a court issues an order under division (E)(1) of this section, the court also shall order removal of the license plates from the vehicle and cause them to be sent to the registrar if they have not already been sent to the registrar. Thereafter, no further proceedings shall take place under this section, but the offender remains liable for payment of the immobilization fee described in division (A)(3) of this section if an immobilization order previously had been issued by the court.

(3) Prior to initiating a proceeding under division (E)(1) of this section, and upon payment of the fee under division (B) of section 4505.14 of the Revised Code, any interested party may cause a search to be made of the public records of the bureau of motor vehicles or the clerk of the court of common pleas, to ascertain the identity of any lienholder of the vehicle. The initiating party shall furnish this information to the clerk of the court with jurisdiction over the case, and the clerk shall provide notice to the vehicle owner, the defendant, any lienholder, and any other interested parties listed by the initiating party, at the last known address supplied by the initiating party, by certified mail or, at the option of the initiating party, by personal service or ordinary mail.

As used in this section, "interested party" includes the offender, all lienholders, the owner of the



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place of storage, the person or entity that caused the vehicle to be removed, and the person or entity, if any, entitled to the immobilization fee under division (A)(5) of this section.