



Ohio Legislative Service Commission

Sub. Bill Comparative Synopsis

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H.B. 347

131st General Assembly
(H. Judiciary)

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (As Introduced)	Sub. Version (LSC 131 1769-4)
Civil forfeiture	Eliminates the civil forfeiture process (<i>R.C. 2981.03(F)</i> and repeal of <i>R.C. 2981.05</i>).	Generally reinstates the civil forfeiture process, but modifies that law by eliminating the requirement that the prosecutor must file a civil forfeiture action if a criminal forfeiture has not begun and permitting a civil forfeiture action to be filed only under specified circumstances not sooner than one year after the seizure of the property (<i>R.C. 2981.05(A)</i>). Specifies that a complaint for civil forfeiture may only be filed if the property was seized with probable cause that it was involved in the commission of a felony or was directly or indirectly obtained through the commission of a felony and either of the following applies (<i>R.C. 2981.05(A)</i>):

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		<p>(1) The property owner is unavailable because the property owner is deceased; a felony indictment has been filed against the property owner or a warrant was issued for the arrest of the property owner, and either the property owner is outside the state and unable to be extradited for prosecution or reasonable efforts have been made to locate and arrest the property owner, but the property owner has not been located; or despite reasonable efforts to identify the property owner, the property owner is unidentifiable.</p> <p>(2) The property owner has not claimed, or asserted interest in, the property at any time during or after seizure, verbally or in writing, and all claims of aggrieved parties have been denied.</p> <p>Requires the complaint to state the facts supporting the allegations of the state or political subdivision and the alleged felony subjecting the property to forfeiture (R.C. 2981.05(C)).</p> <p>Specifies that there is a rebuttable presumption that the person in possession of the property at the time of its seizure is the owner of the property unless the legal title to the property states otherwise (R.C. 2981.05(B)).</p>
Effect of filing criminal forfeiture action	Repeals the provision specifying that the prosecutor's filing of a charging instrument for an offense that is also the basis of a civil forfeiture action stays the civil action (R.C. 2981.03(F)).	Reinstates and modifies that provision by providing that the filing of a charging instrument terminates the civil forfeiture action, but permits a civil forfeiture action to be filed after a charging instrument has been filed if the civil action is brought as provided above (R.C. 2981.03(F)).

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Finding persons with an interest in the property	Repeals the provision requiring the prosecutor, prior to or upon the commencement of a civil forfeiture action, to attempt to identify persons with an interest in the property, give notice of the action to persons reasonably known to have an interest in the property, and publish a newspaper notice once each week for two consecutive weeks (<i>repeal of R.C. 2981.05(B)</i>).	Reinstates and modifies the provision by: (1) requiring the prosecutor, prior to the commencement of the civil forfeiture action, to attempt to identify persons with an interest in the property and, at the time of filing the complaint, to give notice of the action to persons reasonably known to have an interest in the property, and (2) requiring the publication of the notice once each week for the two consecutive weeks immediately after filing of the complaint and requiring that notice to contain the date and location of the seizure of the property and an itemized list of the property (<i>R.C. 2981.05(D)</i>).
Burden of proof in civil forfeiture action	Repeals the provision that requires the prosecutor to prove by a preponderance of the evidence that property is subject to forfeiture (<i>repeal of R.C. 2981.05(D)</i>).	Reinstates and modifies the provision by requiring the prosecutor to prove by clear and convincing evidence that the property is subject to forfeiture (<i>R.C. 2981.05(F)</i>).
Other provisions pertaining to civil forfeiture	Repeals the following provisions related to civil forfeiture (<i>R.C. 2923.36, 2981.03(F), 2981.06(A), 2981.08(B), 2981.13(B)(2), repeal of R.C. 2981.05</i>): <ul style="list-style-type: none"> • Filing of a corrupt activity lien notice and a <i>lis pendens</i>; • Permitting a person with an interest in the property to petition the court for a conditional release of the property; • Upon entry of a forfeiture order, requiring the court to order the seizure of the property if necessary; • If the court disposes of all petitions in favor of the state or political subdivision, providing that the state or political 	Reinstates these and other conforming provisions applicable to the civil forfeiture process (<i>R.C. 2329.36, 2981.03, 2981.05, 2981.06, and 2981.13(B)(2)</i>).

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	subdivision has clear title to the property; <ul style="list-style-type: none"> • Granting the right to a jury trial to the defendant, the state or political subdivision, and third party claimants; • Providing that moneys acquired from the sale of forfeited property or any forfeited proceeds be applied to satisfy any recovery ordered for the person harmed. 	
Motion for relief from alleged unlawful seizure	Provides that if a motion for relief from an alleged unlawful seizure is filed before a complaint or indictment is filed, the court must schedule a hearing not later than 14 days after it is filed <i>(R.C. 2981.03(A)(4))</i> .	Additionally permits the court to extend the time for a hearing on the motion by consent of the parties or for good cause shown <i>(R.C. 2981.03(A)(4))</i> .
Criminal forfeiture – third party claimants	Modifies existing law by placing on the prosecutor the burden of proof by clear and convincing evidence that an applicable condition alleged by a third party petitioner asserting a legal interest in the property does not apply to the petitioner <i>(R.C. 2981.04(F)(1))</i> .	Retains existing law in which the petitioner has the burden of proof by a preponderance of the evidence that the alleged condition applies to the petitioner <i>(R.C. 2981.04(F)(1))</i> .
Conditional release of property	No provision. If property seized is a mobile instrumentality, requires the court to decide on a petition for conditional release of the instrumentality not more than seven days after it is filed <i>(R.C. 2981.03(D)(6))</i> .	Modifies existing law by providing that if no complaint or indictment is filed, a petition for conditional release of property must be filed within 30 days of the seizure of the property instead of within 30 days of the issuance of the seizure warrant <i>(R.C. 2981.03(D)(2))</i> . Increases the time for the court to decide on the petition to not more than 10 days after it is filed <i>(R.C. 2981.03(D)(6))</i> .

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	Modifies existing law by permitting the court to extend the applicable time for deciding on the petition by consent of the parties and to extend that time up to 30 days for good cause shown (R.C. 2981.03(D)(6)).	Retains existing law which provides that the court may extend the time for deciding on the petition by consent of the parties or for good cause shown (R.C. 2981.03(D)(6)).
Unreachable property	Prescribes as one of the conditions for ordering forfeiture of other property that the forfeited property has been transferred, sold, or deposited with a third party unless the transfer, sale, or deposit is in violation of the offense of interference with or diminishing forfeitable property (R.C. 2981.06(D)(1)(b)).	Modifies this condition by ordering forfeiture of other property if the forfeited property has been transferred, sold, or deposited with an innocent or bona-fide third party (R.C. 2981.06(D)(1)(b)).
Additional purpose governing forfeitures	States a new purpose governing forfeitures, which is to prohibit the forfeiture of a person's property unless the person has been convicted of an offense or adjudicated a delinquent child for committing an act that would be an offense if committed by an adult (R.C. 2981.01(A)(5)).	No provision.
Disposition of funds	Expands the provision requiring that 10% of the moneys acquired from the sale of the forfeited property in a delinquent child proceeding be applied to community addiction services providers, to also require 10% of the moneys from forfeited property in a criminal forfeiture proceeding to be applied to community addiction services providers (R.C. 2981.12(D)).	Expands the provision to apply to moneys acquired from property sold in a civil proceeding (R.C. 2981.12(D)).
Expenditure of forfeited funds	No provision.	Provides that forfeited funds may also be used to pay the costs associated with a law enforcement agency's participation in a federal drug enforcement task force or similar federal drug program (R.C. 2981.13(C)(2)(a)(vi)).

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Federal forfeiture	Prohibits a law enforcement agency or prosecuting authority from transferring seized property to any federal law enforcement authority or other federal agency for federal forfeiture unless the value of the property generally exceeds \$50,000 (<i>R.C. 2981.14(B)</i>).	Prohibits such agency or authority from transferring or referring seized property to any federal law enforcement authority or other federal agency for federal forfeiture unless the value of the property generally exceeds \$50,000 or the transfer or reference is for federal criminal forfeiture proceedings (<i>R.C. 2981.14(B)</i>).
Goods in execution claimed by third party	No provision.	<p>Modifies existing law by requiring the judge of the court of common pleas, municipal court, or county court, whichever has jurisdiction, to schedule a hearing to determine the claimant's right to the property as soon as practicable after receipt of the notice and schedule of property, instead of a county court making an entry of the notice and schedule on the docket and issuing a summons commanding the sheriff to summon five disinterested men with the qualifications of electors to appear before the judge not more than three days after the date of the writ to serve as jurors (<i>R.C. 2329.84</i>).</p> <p>Repeals the provision requiring the claimant to give two days' written notice to the plaintiff or party for whose benefit the writ was issued, and to the party's agent or attorney, of the time and place of trial, and to prove to the judge that such notice was given or could not be given due to the absence of the potential recipients (<i>R.C. 2329.84</i>).</p>

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Trial of third party's right to property in execution	No provision.	<p>Repeals the existing provisions requiring the jurors summoned as described above to be sworn to try and determine the right of the claimant to the property in controversy and to summon another jury if the initial jurors fail to agree and are discharged.</p> <p>Eliminates a jury trial and findings and provides that the judge must render judgment based on the judge's findings at the hearing described above. (<i>R.C. 2329.85 and 2329.86.</i>)</p>
Offense of receiving proceeds of a drug abuse or trafficking in persons offense	No provision.	<p>Prohibits any person from receiving, retaining, possessing, or disposing of proceeds knowing or having reasonable cause to believe that the proceeds were derived from the commission of a drug abuse offense or the offense of trafficking in persons (<i>R.C. 2927.21(A) and (B)</i>).</p> <p>Provides that it is not a defense that the proceeds were derived by means other than the commission of a drug abuse or trafficking in persons offense if the property was explicitly represented to the accused person as having been derived from either such offense (<i>R.C. 2927.21(C)</i>).</p> <p>Provides that a person is considered to have received, retained, possessed, or disposed of proceeds if they were found in a vehicle that the person was the last person to operate immediately prior to the vehicle's search (<i>R.C. 2927.21(D)</i>).</p> <p>Prescribes the following penalties for receiving</p>

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		<p>proceeds of a drug abuse or trafficking in persons offense, which depend on the value of the proceeds involved:</p> <ul style="list-style-type: none"> • Misdemeanor of the first degree if the value is less than \$1,000; • Felony of the fifth degree if the value is \$1,000 or more and less than \$25,000; • Felony of the fourth degree if the value is \$25,000 or more and less than \$150,000; • Felony of the third degree if the value is \$150,000 or more.

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