



Ohio Revised Code

Section 2981.05 Civil forfeiture action.

Effective: April 6, 2017

Legislation: House Bill 347 - 131st General Assembly

(A) After the seizure of property described in division (A) of section 2981.02 of the Revised Code and not sooner than three months after the property owner is deceased as described in division (A)(1)(a) of this section, not sooner than three months after the property owner has not claimed, or asserted any interest in, the property as described in division (A)(2) of this section, or not sooner than one year after division (A)(1)(b)(i) or (ii) of this section applies, the prosecutor of the political subdivision in which the property is located may commence a civil forfeiture action under this section by filing in the court of common pleas of the county in which the property is located a complaint requesting an order that forfeits the property to the state or a political subdivision. A complaint for civil forfeiture may only be filed under this division if the property was seized with probable cause that it was involved in the commission of a felony or a gambling offense or was directly or indirectly obtained through the commission of a felony or a gambling offense and either of the following applies:

(1) The property owner is unavailable to the court for one of the following reasons:

(a) The property owner is deceased.

(b) An indictment for a felony or a charge for a gambling offense has been filed against the property owner, a warrant was issued for the arrest of the property owner, and either of the following applies:

(i) The property owner is outside the state and unable to be extradited or brought back to the state for prosecution for the felony or gambling offense.

(ii) Reasonable efforts have been made by law enforcement authorities to locate and arrest the property owner, but the property owner has not been located.

(2) The property owner has not claimed the property subject to forfeiture or asserted any interest in the property at any time during or after its seizure, verbally or in writing, and all claims brought



under division (A)(4) of section 2981.03 of the Revised Code have been denied.

(B)(1) The filing of a complaint for civil forfeiture under division (A) of this section shall be consistent with division (F) of section 2981.03 of the Revised Code. The complaint shall state all of the following:

(a) The facts that support the state's or political subdivision's allegations in the complaint;

(b) The alleged felony or gambling offense that subjects the property to forfeiture under division (A) of section 2981.02 of the Revised Code.

(2) If the property owner is unavailable to the court because the property owner is deceased as provided in division (A)(1)(a) of this section, the complaint shall include a certified copy of the death certificate of the property owner.

(C) Simultaneously with or after the filing of a complaint, indictment, or information charging an offense or a complaint charging a delinquent act, the prosecutor may commence a civil forfeiture action by filing in the court in which the applicable complaint, indictment, or information is filed a complaint requesting an order that forfeits to the state or political subdivision any property that is involved in the offense or delinquent act and is subject to forfeiture under section 2981.02 of the Revised Code. The civil forfeiture action filed under this division shall be stayed during the pendency of the applicable criminal or delinquency proceedings. That civil forfeiture action shall proceed after the defendant is convicted of, or enters intervention in lieu of conviction for, the offense involved or the juvenile is adjudicated a delinquent child for the delinquent act involved.

(D)(1) Subject to division (D)(7) of this section, the state may file a civil forfeiture action, in the form of a civil action, against any person who is alleged to have received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were allegedly derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code. The complaint shall be filed in the court of common pleas of the county in which the proceeds were alleged to have been received, retained, possessed, or disposed of by the person. The complaint shall specify all of the following:



(a) That the person against whom the complaint is filed is alleged to have received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were allegedly derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code;

(b) That the state has the right to recover the proceeds described in division (D)(1)(a) of this section;

(c) The actual amount of the proceeds described in division (D)(1)(a) of this section.

(2) Subject to division (D)(7) of this section, a civil action filed under division (D)(1) of this section shall be stayed if a criminal complaint, indictment, or information is filed against the person who is alleged to have received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code.

(3) In a civil action filed under division (D)(1) of this section, the state has the burden to prove by clear and convincing evidence all of the following:

(a) That the person received, retained, possessed, or disposed of the proceeds involved;

(b) That the person knew or had reasonable cause to believe that the proceeds were derived from the alleged commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code;

(c) Subject to division (D)(7) of this section, the actual amount of the proceeds received, retained, possessed, or disposed of by the person that exceeds fifteen thousand dollars.

(4) Any statements made in a civil action under division (D)(1) of this section are inadmissible as evidence in a criminal action brought against the person involved for a violation of section 2927.21 of the Revised Code, except for purposes of impeachment.



(5) Subject to division (D)(7) of this section, a civil action under division (D)(1) of this section shall be commenced within two years after the latest date on which a person allegedly received, retained, possessed, or disposed of proceeds, in an amount exceeding fifteen thousand dollars, knowing or having reasonable cause to believe that the proceeds were allegedly derived from the commission of an offense subject to forfeiture proceedings in violation of section 2927.21 of the Revised Code.

(6) The court shall complete the trial of the civil action under division (D)(1) of this section within one year after the action is commenced unless the parties to the action mutually agree to extend the one-year period or the extension of that period is for good cause shown.

(7) The amount of fifteen thousand dollars specified in divisions (D)(1), (2), (3)(c), and (5) of this section shall be increased on the first day of the following January, starting on January 1, 2018, by the rate of inflation for the twelve-month period ending in September of the prior year according to the consumer price index or its successor index.

(E) For purposes of this section, there is a rebuttable presumption that the person in possession of the property at the time of its seizure is considered to be the owner of the property unless legal title to the property states otherwise.

(F) Prior to the commencement of a civil forfeiture action under this section, the prosecutor shall attempt to identify any person with an interest in the property subject to forfeiture by searching appropriate public records and making reasonably diligent inquiries. At the time of filing the complaint, the prosecutor shall give notice of the commencement of the civil action, together with a copy of the complaint, to each person who is reasonably known to have any interest in the property, by certified mail, return receipt requested, or by personal service. The prosecutor shall cause a similar notice to be published once each week for the two consecutive weeks immediately after the filing of the complaint in a newspaper of general circulation in the county in which the property is located. The published notice shall contain the date and location of the seizure of the property and an itemized list of the property seized that is sought to be forfeited in the complaint.

(G) A person with an interest in the property subject to forfeiture may petition the court to release the property pursuant to division (D) of section 2981.03 of the Revised Code. The court shall consider the petition as provided in that section. If a timely petition for pretrial hardship release is not filed, or



if a petition is filed but not granted, the person may file a claim for the release of the property under the Rules of Civil Procedure. The court shall dispose of any petitions timely filed under this division.

(H) The court shall issue a civil forfeiture order if it determines that the prosecutor has proved by clear and convincing evidence that the property is subject to forfeiture under section 2981.02 of the Revised Code, and, after a proportionality review under section 2981.09 of the Revised Code when relevant, the trier of fact specifically describes the extent of the property to be forfeited. A civil forfeiture order shall state that all interest in the property in question of the property owner who committed the felony or gambling offense if division (A) of this section applies, of the adult or juvenile who committed the act if division (C) of this section applies, or of the person who is alleged to have received, retained, possessed, or disposed of proceeds if division (D) of this section applies that is the basis of the order is forfeited to the state or political subdivision and shall make due provision for the interest in that property of any other person, when appropriate under this section. The court may issue any additional order to affect the forfeiture, including, but not limited to, one or more orders under section 2981.06 of the Revised Code.

(I) If the court disposes of all petitions timely filed under this section in favor of the state or political subdivision, the state or political subdivision shall have clear title to the property that is the subject of a forfeiture order under this section, but only to the extent that other parties' lawful interests in the property are not infringed. To the extent that the state or political subdivision has clear title to the property, the state or political subdivision may warrant good title to any subsequent purchaser or other transferee.

(J) As used in this section:

(1) "Gambling offense" has the same meaning as in section 2915.01 of the Revised Code;

(2) "Offense subject to forfeiture proceedings" has the same meaning as in section 2927.21 of the Revised Code.