

As Introduced

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S. B. No. 365

Senator Eklund

Cosponsors: Senators Coley, Tavares, Seitz, Thomas, Patton, Hite

A BILL

To amend sections 2913.04 and 2923.129 and to enact 1
section 5503.101 of the Revised Code to allow 2
disclosure of information from the law 3
enforcement automated data system (LEADS) to a 4
defendant in a traffic or criminal case. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2913.04 and 2923.129 be amended 6
and section 5503.101 of the Revised Code be enacted to read as 7
follows: 8

Sec. 2913.04. (A) No person shall knowingly use or operate 9
the property of another without the consent of the owner or 10
person authorized to give consent. 11

(B) No person, in any manner and by any means, including, 12
but not limited to, computer hacking, shall knowingly gain 13
access to, attempt to gain access to, or cause access to be 14
gained to any computer, computer system, computer network, cable 15
service, cable system, telecommunications device, 16
telecommunications service, or information service without the 17
consent of, or beyond the scope of the express or implied 18

consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.

(C) ~~No~~ Except as permitted under section 5503.101 of the Revised Code, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to section 5503.10 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.

(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to division (C) (1) of section 109.57 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the bureau of criminal identification and investigation.

(E) The affirmative defenses contained in division (C) of section 2913.03 of the Revised Code are affirmative defenses to a charge under this section.

(F) (1) Whoever violates division (A) of this section is guilty of unauthorized use of property.

(2) Except as otherwise provided in division (F) (3) or (4) of this section, unauthorized use of property is a misdemeanor of the fourth degree.

(3) Except as otherwise provided in division (F) (4) of

this section, if unauthorized use of property is committed for 48
the purpose of devising or executing a scheme to defraud or to 49
obtain property or services, unauthorized use of property is 50
whichever of the following is applicable: 51

(a) Except as otherwise provided in division (F) (3) (b), 52
(c), or (d) of this section, a misdemeanor of the first degree. 53

(b) If the value of the property or services or the loss 54
to the victim is one thousand dollars or more and is less than 55
seven thousand five hundred dollars, a felony of the fifth 56
degree. 57

(c) If the value of the property or services or the loss 58
to the victim is seven thousand five hundred dollars or more and 59
is less than one hundred fifty thousand dollars, a felony of the 60
fourth degree. 61

(d) If the value of the property or services or the loss 62
to the victim is one hundred fifty thousand dollars or more, a 63
felony of the third degree. 64

(4) If the victim of the offense is an elderly person or 65
disabled adult, unauthorized use of property is whichever of the 66
following is applicable: 67

(a) Except as otherwise provided in division (F) (4) (b), 68
(c), or (d) of this section, a felony of the fifth degree; 69

(b) If the value of the property or services or loss to 70
the victim is one thousand dollars or more and is less than 71
seven thousand five hundred dollars, a felony of the fourth 72
degree; 73

(c) If the value of the property or services or loss to 74
the victim is seven thousand five hundred dollars or more and is 75

less than thirty-seven thousand five hundred dollars, a felony 76
of the third degree; 77

(d) If the value of the property or services or loss to 78
the victim is thirty-seven thousand five hundred dollars or 79
more, a felony of the second degree. 80

(G) (1) Whoever violates division (B) of this section is 81
guilty of unauthorized use of computer, cable, or 82
telecommunication property, and shall be punished as provided in 83
division (G) (2), (3), or (4) of this section. 84

(2) Except as otherwise provided in division (G) (3) or (4) 85
of this section, unauthorized use of computer, cable, or 86
telecommunication property is a felony of the fifth degree. 87

(3) Except as otherwise provided in division (G) (4) of 88
this section, if unauthorized use of computer, cable, or 89
telecommunication property is committed for the purpose of 90
devising or executing a scheme to defraud or to obtain property 91
or services, for obtaining money, property, or services by false 92
or fraudulent pretenses, or for committing any other criminal 93
offense, unauthorized use of computer, cable, or 94
telecommunication property is whichever of the following is 95
applicable: 96

(a) Except as otherwise provided in division (G) (3) (b) of 97
this section, if the value of the property or services involved 98
or the loss to the victim is seven thousand five hundred dollars 99
or more and less than one hundred fifty thousand dollars, a 100
felony of the fourth degree; 101

(b) If the value of the property or services involved or 102
the loss to the victim is one hundred fifty thousand dollars or 103
more, a felony of the third degree. 104

(4) If the victim of the offense is an elderly person or disabled adult, unauthorized use of computer, cable, or telecommunication property is whichever of the following is applicable:

(a) Except as otherwise provided in division (G) (4) (b), (c), or (d) of this section, a felony of the fifth degree;

(b) If the value of the property or services or loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fourth degree;

(c) If the value of the property or services or loss to the victim is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a felony of the third degree;

(d) If the value of the property or services or loss to the victim is thirty-seven thousand five hundred dollars or more, a felony of the second degree.

(H) Whoever violates division (C) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony of the fifth degree.

(I) Whoever violates division (D) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony of the fifth degree.

(J) As used in this section:

(1) "Cable operator" means any person or group of persons that does either of the following:

(a) Provides cable service over a cable system and directly or through one or more affiliates owns a significant

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| interest in that cable system; | 133 |
| (b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system. | 134 135 |
| (2) "Cable service" means any of the following: | 136 |
| (a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally; | 137 138 139 |
| (b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (J) (2) (a) of this section; | 140 141 142 143 |
| (c) Any cable television service. | 144 |
| (3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following: | 145 146 147 148 149 150 |
| (a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations; | 151 152 |
| (b) Any facility that serves subscribers without using any public right-of-way; | 153 154 |
| (c) Any facility of a common carrier that, under 47 U.S.C.A. 522(7) (c), is excluded from the term "cable system" as defined in 47 U.S.C.A. 522(7); | 155 156 157 |
| (d) Any open video system that complies with 47 U.S.C.A. 573; | 158 159 |

(e) Any facility of any electric utility used solely for 160
operating its electric utility system. 161

Sec. 2923.129. (A) (1) If a sheriff, the superintendent of 162
the bureau of criminal identification and investigation, the 163
employees of the bureau, the Ohio peace officer training 164
commission, or the employees of the commission make a good faith 165
effort in performing the duties imposed upon the sheriff, the 166
superintendent, the bureau's employees, the commission, or the 167
commission's employees by sections 109.731, 311.41, and 2923.124 168
to 2923.1213 of the Revised Code, in addition to the personal 169
immunity provided by section 9.86 of the Revised Code or 170
division (A) (6) of section 2744.03 of the Revised Code and the 171
governmental immunity of sections 2744.02 and 2744.03 of the 172
Revised Code and in addition to any other immunity possessed by 173
the bureau, the commission, and their employees, the sheriff, 174
the sheriff's office, the county in which the sheriff has 175
jurisdiction, the bureau, the superintendent of the bureau, the 176
bureau's employees, the commission, and the commission's 177
employees are immune from liability in a civil action for 178
injury, death, or loss to person or property that allegedly was 179
caused by or related to any of the following: 180

(a) The issuance, renewal, suspension, or revocation of a 181
concealed handgun license; 182

(b) The failure to issue, renew, suspend, or revoke a 183
concealed handgun license; 184

(c) Any action or misconduct with a handgun committed by a 185
licensee. 186

(2) Any action of a sheriff relating to the issuance, 187
renewal, suspension, or revocation of a concealed handgun 188

license shall be considered to be a governmental function for 189
purposes of Chapter 2744. of the Revised Code. 190

(3) An entity that or instructor who provides a competency 191
certification of a type described in division (B)(3) of section 192
2923.125 of the Revised Code is immune from civil liability that 193
might otherwise be incurred or imposed for any death or any 194
injury or loss to person or property that is caused by or 195
related to a person to whom the entity or instructor has issued 196
the competency certificate if all of the following apply: 197

(a) The alleged liability of the entity or instructor 198
relates to the training provided in the course, class, or 199
program covered by the competency certificate. 200

(b) The entity or instructor makes a good faith effort in 201
determining whether the person has satisfactorily completed the 202
course, class, or program and makes a good faith effort in 203
assessing the person in the competency examination conducted 204
pursuant to division (G)(2) of section 2923.125 of the Revised 205
Code. 206

(c) The entity or instructor did not issue the competency 207
certificate with malicious purpose, in bad faith, or in a wanton 208
or reckless manner. 209

(4) An entity that or instructor who, prior to March 27, 210
2013, provides a renewed competency certification of a type 211
described in division (G)(4) of section 2923.125 of the Revised 212
Code as it existed prior to March 27, 2013, is immune from civil 213
liability that might otherwise be incurred or imposed for any 214
death or any injury or loss to person or property that is caused 215
by or related to a person to whom the entity or instructor has 216
issued the renewed competency certificate if all of the 217

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| following apply: | 218 |
| (a) The entity or instructor makes a good faith effort in | 219 |
| assessing the person in the physical demonstrations or the | 220 |
| competency examination conducted pursuant to division (G) (4) of | 221 |
| section 2923.125 of the Revised Code as it existed prior to | 222 |
| March 27, 2013. | 223 |
| (b) The entity or instructor did not issue the renewed | 224 |
| competency certificate with malicious purpose, in bad faith, or | 225 |
| in a wanton or reckless manner. | 226 |
| (5) A law enforcement agency that employs a peace officer | 227 |
| is immune from liability in a civil action to recover damages | 228 |
| for injury, death, or loss to person or property allegedly | 229 |
| caused by any act of that peace officer if the act occurred | 230 |
| while the peace officer carried a concealed handgun and was off | 231 |
| duty and if the act allegedly involved the peace officer's use | 232 |
| of the concealed handgun. Sections 9.86 and 9.87, and Chapter | 233 |
| 2744., of the Revised Code apply to any civil action involving a | 234 |
| peace officer's use of a concealed handgun in the performance of | 235 |
| the peace officer's official duties while the peace officer is | 236 |
| off duty. | 237 |
| (B) Notwithstanding section 149.43 of the Revised Code, | 238 |
| the records that a sheriff keeps relative to the issuance, | 239 |
| renewal, suspension, or revocation of a concealed handgun | 240 |
| license, including, but not limited to, completed applications | 241 |
| for the issuance or renewal of a license, completed affidavits | 242 |
| submitted regarding an application for a license on a temporary | 243 |
| emergency basis, reports of criminal records checks and | 244 |
| incompetency records checks under section 311.41 of the Revised | 245 |
| Code, and applicants' social security numbers and fingerprints | 246 |
| that are obtained under division (A) of section 311.41 of the | 247 |

Revised Code, are confidential and are not public records. No 248
person shall release or otherwise disseminate records that are 249
confidential under this division unless required to do so 250
pursuant to a court order. 251

(C) Each sheriff shall report to the Ohio peace officer 252
training commission the number of concealed handgun licenses 253
that the sheriff issued, renewed, suspended, revoked, or denied 254
under section 2923.125 of the Revised Code during the previous 255
quarter of the calendar year, the number of applications for 256
those licenses for which processing was suspended in accordance 257
with division (D) (3) of section 2923.125 of the Revised Code 258
during the previous quarter of the calendar year, and the number 259
of concealed handgun licenses on a temporary emergency basis 260
that the sheriff issued, suspended, revoked, or denied under 261
section 2923.1213 of the Revised Code during the previous 262
quarter of the calendar year. The sheriff shall not include in 263
the report the name or any other identifying information of an 264
applicant or licensee. The sheriff shall report that information 265
in a manner that permits the commission to maintain the 266
statistics described in division (C) of section 109.731 of the 267
Revised Code and to timely prepare the statistical report 268
described in that division. The information that is received by 269
the commission under this division is a public record kept by 270
the commission for the purposes of section 149.43 of the Revised 271
Code. 272

(D) Law enforcement agencies may use the information a 273
sheriff makes available through the use of the law enforcement 274
automated data system pursuant to division (H) of section 275
2923.125 or division (B) (2) or (D) of section 2923.1213 of the 276
Revised Code for law enforcement purposes only. The information 277
is confidential and is not a public record. ~~A-Except as provided~~ 278

in section 5503.101 of the Revised Code, a person who releases 279
or otherwise disseminates this information obtained through the 280
law enforcement automated data system in a manner not described 281
in this division is guilty of a violation of section 2913.04 of 282
the Revised Code. 283

(E) Whoever violates division (B) of this section is 284
guilty of illegal release of confidential concealed handgun 285
license records, a felony of the fifth degree. In addition to 286
any penalties imposed under Chapter 2929. of the Revised Code 287
for a violation of division (B) of this section or a violation 288
of section 2913.04 of the Revised Code described in division (D) 289
of this section, if the offender is a sheriff, an employee of a 290
sheriff, or any other public officer or employee, and if the 291
violation was willful and deliberate, the offender shall be 292
subject to a civil fine of one thousand dollars. Any person who 293
is harmed by a violation of division (B) or (C) of this section 294
or a violation of section 2913.04 of the Revised Code described 295
in division (D) of this section has a private cause of action 296
against the offender for any injury, death, or loss to person or 297
property that is a proximate result of the violation and may 298
recover court costs and attorney's fees related to the action. 299

Sec. 5503.101. (A) Notwithstanding any section of the 300
Revised Code or rule of procedure to the contrary, a defendant's 301
traffic or criminal record contained in the law enforcement 302
automated data system, also known as LEADS, may be disclosed to 303
the defendant and defendant's counsel when formally requested 304
pursuant to the rules of discovery in a traffic or criminal 305
case. 306

(B) Copies of information obtained from the law 307
enforcement automated data system may be provided to the 308

defendant and defendant's counsel when formally requested 309
pursuant to the rules of discovery in a traffic or criminal 310
case. 311

(C) Notwithstanding section 2913.04 or 2923.129 of the 312
Revised Code, no prosecutor or person assisting a prosecutor in 313
providing discovery shall be held civilly or criminally liable 314
for disclosing information from the law enforcement automated 315
data system in the manner authorized by this section. 316

(D) The superintendent of the state highway patrol or any 317
person employed by the superintendent to carry out the purposes 318
of section 5503.10 of the Revised Code shall not sanction or 319
deny access to the law enforcement automated data system to any 320
person or entity because that person or entity provided 321
discovery information in the manner authorized by this section. 322

(E) The defendant's counsel may disclose, copy, and 323
provide to the defendant any information about the defendant's 324
own traffic or criminal record obtained by discovery from the 325
law enforcement automated data system. 326

(F) The fact that information sought in discovery is 327
contained in the law enforcement automated data system shall not 328
be cited or accepted as a reason for denying discovery to the 329
defendant of the defendant's own traffic or criminal record. 330

Section 2. That existing sections 2913.04 and 2923.129 of 331
the Revised Code are hereby repealed. 332