

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 351**

**Representatives Sobecki, Lepore-Hagan**

**Cosponsors: Representatives Galonski, Brown, Russo, Lightbody, Weinstein, Boggs, Smith, K., Patterson, Boyd, Kelly, O'Brien, Brent, Howse, Miller, J., Rogers, Ingram, Crawley, Miller, A., Strahorn, Upchurch, Sweeney, Miranda, Robinson**

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**A BILL**

To amend sections 3767.01, 3767.05, 4301.74, and 1  
5321.02 and to enact section 5321.172 of the 2  
Revised Code to allow a tenant to terminate a 3  
rental agreement if the tenant is a victim of a 4  
specified crime. 5

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

**Section 1.** That sections 3767.01, 3767.05, 4301.74, and 6  
5321.02 be amended and section 5321.172 of the Revised Code be 7  
enacted to read as follows: 8

**Sec. 3767.01.** As used in all sections of the Revised Code 9  
relating to nuisances: 10

(A) "Place" includes any building, erection, or place or 11  
any separate part or portion thereof or the ground itself; 12

(B) "Person" includes any individual, corporation, 13  
association, partnership, trustee, lessee, agent, or assignee; 14

(C) ~~"Nuisance"~~ (1) Except as provided in division (C) (2) 15  
of this section, "nuisance" means any of the following: 16

~~(1)~~ (a) That which is defined and declared by statutes to be a nuisance; 17  
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~~(2)~~ (b) Any place in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued, or exists, or any place, in or upon which lewd, indecent, lascivious, or obscene films or plate negatives, film or plate positives, films designed to be projected on a screen for exhibition films, or glass slides either in negative or positive form designed for exhibition by projection on a screen, are photographed, manufactured, developed, screened, exhibited, or otherwise prepared or shown, and the personal property and contents used in conducting and maintaining any such place for any such purpose. This chapter shall not affect any newspaper, magazine, or other publication entered as second class matter by the post-office department. 19  
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~~(3)~~ (c) Any room, house, building, boat, vehicle, structure, or place where beer or intoxicating liquor is manufactured, sold, bartered, possessed, or kept in violation of law and all property kept and used in maintaining the same, and all property designed for the unlawful manufacture of beer or intoxicating liquor and beer or intoxicating liquor contained in the room, house, building, boat, structure, or place, or the operation of such a room, house, building, boat, structure, or place as described in division ~~(C) (3)~~ (C) (1) (c) of this section where the operation of that place substantially interferes with public decency, sobriety, peace, and good order. "Violation of law" includes, but is not limited to, sales to any person under the legal drinking age as prohibited in division (A) of section 4301.22 or division (A) of section 4301.69 of the Revised Code and any violation of section 2913.46 or 2925.03 of the Revised Code. 32  
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(2) "Nuisance" shall not include service calls to law enforcement relating to domestic violence. 48  
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**Sec. 3767.05.** (A) The civil action provided for in section 50  
3767.03 of the Revised Code shall be set down for trial at the 51  
earliest possible time and shall have precedence over all other 52  
cases except those involving crimes, election contests, or 53  
injunctions regardless of the position of the proceedings on the 54  
calendar of the court. In the civil action, evidence of the 55  
general reputation of the place where the nuisance is alleged to 56  
exist or an admission or finding of guilt of any person under 57  
the criminal laws against prostitution, lewdness, assignation, 58  
or other prohibited conduct at the place is admissible for the 59  
purpose of proving the existence of the nuisance and is prima- 60  
facie evidence of the nuisance and of knowledge of and of 61  
acquiescence and participation in the nuisance on the part of 62  
the person charged with maintaining it. 63

(B) If the complaint for the permanent injunction is filed 64  
by a person who is a citizen of the county, it shall not be 65  
dismissed unless the complainant and the complainant's attorney 66  
submit a sworn statement setting forth the reasons why the civil 67  
action should be dismissed and the dismissal is approved by the 68  
prosecuting attorney in writing or in open court. If the person 69  
who files the complaint for the permanent injunction is a 70  
citizen of the county, if that person refuses or otherwise fails 71  
to prosecute the complaint to judgment, and if the civil action 72  
is not dismissed pursuant to this division, then, with the 73  
approval of the court, the attorney general, the prosecuting 74  
attorney of the county in which the nuisance exists, or the 75  
village solicitor, city director of law, or other similar chief 76  
legal officer of the municipal corporation in which the nuisance 77  
exists, may be substituted for the complainant and prosecute the 78

civil action to judgment. 79

(C) If the civil action is commenced by a person who is a 80  
citizen of the county where the nuisance is alleged to exist and 81  
the court finds that there were no reasonable grounds or cause 82  
for the civil action, the costs may be taxed to that person. 83

(D) If the existence of the nuisance is established upon 84  
the trial of the civil action, a judgment shall be entered that 85  
perpetually enjoins the defendant and any other person from 86  
further maintaining the nuisance at the place complained of and 87  
the defendant from maintaining the nuisance elsewhere. 88

(E) If the court finds that a nuisance described in 89  
division ~~(C) (3)~~ (C) (1) (c) of section 3767.01 of the Revised Code 90  
exists, the court shall order the nuisance to be abated, and, in 91  
entering judgment for nuisance, the court shall do all of the 92  
following: 93

(1) Specify that judgment is entered pursuant to division 94  
(E) of this section; 95

(2) Order that no beer or intoxicating liquor may be 96  
manufactured, sold, bartered, possessed, kept, or stored in the 97  
room, house, building, structure, place, boat, or vehicle or any 98  
part thereof. The court need not find that the property was 99  
being unlawfully used at the time of the hearing on the matter 100  
if the court finds there existed a nuisance as described in 101  
division ~~(C) (3)~~ (C) (1) (c) of section 3767.01 of the Revised 102  
Code. 103

(3) Order that the room, house, building, boat, vehicle, 104  
structure, or place not be occupied or used for one year after 105  
the judgment is rendered. The court may permit the premises to 106  
be occupied by a person other than the defendant or a business 107

affiliate of the defendant in the nuisance action, or an agent 108  
of, or entity owned in whole or part by, the defendant, if the 109  
person, lessee, tenant, or occupant of the location posts a bond 110  
with sufficient surety, to be approved by the court issuing the 111  
order, in the sum of not less than one thousand nor more than 112  
five thousand dollars, payable to the state of Ohio, on the 113  
condition that no beer or intoxicating liquor thereafter shall 114  
be manufactured, sold, bartered, possessed, kept, stored, 115  
transported, or otherwise disposed of on the premises, and the 116  
person agrees to pay all fines, costs, and damages that may be 117  
assessed for a violation. A reasonable sum shall be allowed an 118  
officer by the issuing court for the cost of closing and keeping 119  
closed the premises that is the subject of the nuisance action. 120

(4) Send notice of the judgment entered to the division of 121  
liquor control, the liquor control commission, and the liquor 122  
enforcement division of the department of public safety. 123

(F) A defendant found to have maintained a nuisance as 124  
described in division ~~(C) (3)~~ (C) (1) (c) of section 3767.01 of the 125  
Revised Code also is subject to liability and penalties under 126  
sections 4301.74 and 4399.09 of the Revised Code. The abatement 127  
of a nuisance under section 4399.09 of the Revised Code is in 128  
addition to and does not prevent the abatement of a nuisance 129  
under division (D) or (E) of this section. 130

(G) If a court enters judgment pursuant to division (D) or 131  
(E) of this section finding that a nuisance exists at a liquor 132  
permit premises or as a result of the operation of a liquor 133  
permit premises, except in the case of a nuisance found as a 134  
result of a violation of a local zoning ordinance or resolution, 135  
the certified copy of the judgment required under division (A) 136  
of section 4301.331 of the Revised Code shall be filed with the 137

board of elections in the county in which the nuisance exists, 138  
not later than four p.m. of the ninetieth day before the day of 139  
the next general or primary election. However, no election shall 140  
be conducted on sales at the liquor permit premises under 141  
section 4301.352 of the Revised Code until all appeals on the 142  
judgment are resolved. The court of appeals shall render a 143  
decision on any appeal of the judgment within six months after 144  
the date of the filing of the appeal of the judgment with the 145  
clerk of the court of appeals, and the supreme court shall 146  
render a decision on any appeal of the judgment within six 147  
months after the date of the filing of the appeal of the 148  
judgment with the clerk of the supreme court. 149

**Sec. 4301.74.** Any person subject to an injunction, 150  
temporary or permanent, granted pursuant to division (D) or (E) 151  
of section 3767.05 of the Revised Code involving a condition 152  
described in division ~~(C) (3) or (4)~~ (C) (1) (c) of section 3767.01 153  
of the Revised Code shall obey such injunction. If such person 154  
violates such injunction, the court or in vacation a judge 155  
thereof, may summarily try and punish the violator. The 156  
proceedings for punishment for contempt shall be commenced by 157  
filing with the clerk of the court from which such injunction 158  
issued information under oath setting out the alleged facts 159  
constituting the violation, whereupon the court shall forthwith 160  
cause a warrant to issue under which the defendant shall be 161  
arrested. The trial may be had upon affidavits, or either party 162  
may demand the production and oral examination of the witnesses. 163

**Sec. 5321.02.** (A) Subject to section 5321.03 of the 164  
Revised Code, a landlord may not retaliate against a tenant by 165  
increasing the tenant's rent, decreasing services that are due 166  
to the tenant, or bringing or threatening to bring an action for 167  
possession of the tenant's premises because: 168

(1) The tenant has complained to an appropriate 169  
governmental agency of a violation of a building, housing, 170  
health, or safety code that is applicable to the premises, and 171  
the violation materially affects health and safety; 172

(2) The tenant has complained to the landlord of any 173  
violation of section 5321.04 of the Revised Code; 174

(3) The tenant joined with other tenants for the purpose 175  
of negotiating or dealing collectively with the landlord on any 176  
of the terms and conditions of a rental agreement; 177

(4) The tenant provided notice of termination, or 178  
indicated that the tenant might provide notice of termination, 179  
pursuant to section 5321.172 of the Revised Code. 180

(B) If a landlord acts in violation of division (A) of 181  
this section the tenant may: 182

(1) Use the retaliatory action of the landlord as a 183  
defense to an action by the landlord to recover possession of 184  
the premises; 185

(2) Recover possession of the premises; or 186

(3) Terminate the rental agreement. 187

In addition, the tenant may recover from the landlord any 188  
actual damages together with reasonable attorneys' fees. 189

(C) Nothing in division (A) of this section shall prohibit 190  
a landlord from increasing the rent to reflect the cost of 191  
improvements installed by the landlord in or about the premises 192  
or to reflect an increase in other costs of operation of the 193  
premises. 194

Sec. 5321.172. (A) As used in this section: 195

<u>(1) "Domestic violence" has the same meaning as in section 3113.31 of the Revised Code.</u>	196 197
<u>(2) "Health care professional" means a physician, psychologist, nurse practitioner, or other health care practitioner licensed, accredited, or certified to perform health care services consistent with state law.</u>	198 199 200 201
<u>(3) "Law enforcement officer" has the same meaning as in section 2901.01 of the Revised Code.</u>	202 203
<u>(4) "Mental health professional" has the same meaning as in section 2305.51 of the Revised Code.</u>	204 205
<u>(5) "Qualified third party" means any of the following people acting in their official capacity:</u>	206 207
<u>(a) A law enforcement officer;</u>	208
<u>(b) A health care professional;</u>	209
<u>(c) An employee of a court of this state;</u>	210
<u>(d) A mental health professional;</u>	211
<u>(e) A victim advocate.</u>	212
<u>(6) "Qualifying protection order" means any of the following:</u>	213 214
<u>(a) A protection order issued after a full hearing under section 3113.31 of the Revised Code;</u>	215 216
<u>(b) A consent agreement approved after a full hearing under section 3113.31 of the Revised Code;</u>	217 218
<u>(c) A temporary protection order issued under section 2919.26 of the Revised Code;</u>	219 220
<u>(d) A protection order or consent agreement substantially</u>	221

similar to an order or agreement described in division (A) (6) 222  
(a), (b), or (c) of this section that was issued or approved 223  
under a substantially similar law of another state or a 224  
substantially similar municipal ordinance of this state or 225  
another state. 226

(7) "Rape" means a violation of section 2907.02 of the 227  
Revised Code or a substantially similar violation under the laws 228  
of another state. 229

(8) "Victim advocate" has the same meaning as in section 230  
3113.31 of the Revised Code. 231

(B) A tenant who is an alleged victim of rape, attempted 232  
rape, or domestic violence may terminate the tenant's rental 233  
agreement if all of the following apply: 234

(1) Either of the following applies: 235

(a) A qualifying protection order is issued or approved 236  
for the protection of a tenant. 237

(b) The tenant has reported the alleged domestic violence, 238  
rape, or attempted rape to a qualified third party, and the 239  
qualified third party has provided the tenant a written record 240  
of the report that is signed and dated by the qualified third 241  
party. 242

(2) The tenant provides the landlord both of the following 243  
within thirty days of the qualifying protection order's issuance 244  
or approval or within thirty days of the written record of a 245  
report being signed by a qualified third party: 246

(a) Written notice that the rental agreement will 247  
terminate and the date the tenant will move out, which shall be 248  
not later than thirty days after delivery of the notice; 249

<u>(b) A certified copy of the qualifying protection order or</u>	250
<u>a copy of the written record described in division (B) (1) (b) of</u>	251
<u>this section.</u>	252
<u>(C) The landlord shall not discuss the notice described in</u>	253
<u>division (B) (2) of this section, except for any of the following</u>	254
<u>persons:</u>	255
<u>(1) A law enforcement officer;</u>	256
<u>(2) A government case worker;</u>	257
<u>(3) The tenant's attorney;</u>	258
<u>(4) A victim advocate.</u>	259
<u>(D) The tenant shall be responsible for rent and any other</u>	260
<u>amounts due under the rental agreement for the period following</u>	261
<u>delivery of the notice allowed by division (B) (2) of this</u>	262
<u>section until the tenant vacates the property.</u>	263
<u>(E) (1) All of the following apply to a landlord whose</u>	264
<u>tenant terminates a rental agreement pursuant to this section:</u>	265
<u>(a) The landlord shall give the tenant at least twenty-one</u>	266
<u>days but not more than thirty days to vacate the property.</u>	267
<u>(b) The landlord shall not pursue an action under Chapter</u>	268
<u>1923. of the Revised Code against the tenant for early</u>	269
<u>termination.</u>	270
<u>(c) The landlord shall not charge the tenant any fees that</u>	271
<u>might otherwise be authorized by the early termination of the</u>	272
<u>rental agreement.</u>	273
<u>(d) The landlord shall not change the locks or otherwise</u>	274
<u>prevent the tenant from retrieving the tenant's possessions.</u>	275
<u>(e) The landlord shall return the security deposit to the</u>	276

tenant upon vacating the property pursuant to section 5321.16 of 277  
the Revised Code unless the landlord is entitled to keep the 278  
deposit in accordance with the rental agreement. 279

(2) A landlord who violates division (E)(1) of this 280  
section is liable in a civil action for all damages caused to a 281  
tenant, together with reasonable attorney's fees. 282

(F) If the tenant terminates a rental agreement pursuant 283  
to this section, the rental agreement continues in effect with 284  
regard to any other tenant under the rental agreement. The 285  
tenant shall not be responsible for any action or inaction by 286  
any other person on the rental agreement. 287

**Section 2.** That existing sections 3767.01, 3767.05, 288  
4301.74, and 5321.02 of the Revised Code are hereby repealed. 289