

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 223

Senator Bacon

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A B I L L

To amend sections 2913.05 and 4719.17 and to enact 1
section 109.88 of the Revised Code to allow the 2
Attorney General to investigate the offenses of 3
unauthorized use of property and 4
telecommunications fraud, to modify the penalties 5
for telecommunications fraud, and to create the 6
offense of telecommunications fraud perpetrated 7
against an elderly person or disabled adult. 8

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

Section 1. That sections 2913.05 and 4719.17 be amended and 9
section 109.88 of the Revised Code be enacted to read as follows: 10

Sec. 109.88. (A) If the attorney general has reasonable cause 11
to believe that a person or enterprise has engaged in, is engaging 12
in, or is preparing to engage in a violation of any provision of 13
section 2913.04 or 2913.05 of the Revised Code, the attorney 14
general may investigate the alleged violation. 15

(B) For purposes of an investigation under division (A) of 16
this section, the attorney general may issue subpoenas and 17
subpoenas duces tecum. The attorney general may compel the 18
attendance of witnesses and the production of records and papers 19
of all kinds and description that are relevant to the 20

investigation, including, but not limited to, any books, accounts, documents, and memoranda pertaining to the subject of the investigation. Upon the failure of any person to comply with any subpoena or subpoena duces tecum issued by the attorney general under this section, the attorney general may apply to the court of common pleas in Franklin county or in any county in which an element of the crime occurred for a contempt order as in the case of disobedience of the requirements of a subpoena issued from the court of common pleas or a refusal to testify on a subpoena.

(C) Any information gathered by the attorney general during the course of the investigation that is in the possession of the attorney general, a prosecuting attorney, a law enforcement agency, or a special prosecutor is a confidential law enforcement investigatory record for purposes of section 149.43 of the Revised Code. No provision contained in this section affects or limits any right of discovery granted to any person under the Revised Code, the Rules of Criminal Procedure, or the Rules of Juvenile Procedure.

Sec. 2913.05. (A) No person, having devised a scheme to defraud, shall knowingly disseminate, transmit, or cause to be disseminated or transmitted by means of a wire, radio, satellite, telecommunication, telecommunications device, or telecommunications service any writing, data, sign, signal, picture, sound, or image with purpose to execute or otherwise further the scheme to defraud.

(B) If an offender commits a violation of division (A) of this section and the violation occurs as part of a course of conduct involving other violations of division (A) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised

Code, the court, in determining the degree of the offense pursuant 52
to division (C) of this section, may aggregate the value of the 53
benefit obtained by the offender or of the detriment to the victim 54
of the fraud in the violations involved in that course of conduct. 55
The course of conduct may involve one victim or more than one 56
victim. 57

(C) Whoever violates this section is guilty of 58
telecommunications fraud. Except as otherwise provided in this 59
division, telecommunications fraud is a felony of the fifth 60
degree. If the value of the benefit obtained by the offender or of 61
the detriment to the victim of the fraud is ~~five one~~ thousand 62
dollars or more but less than ~~one hundred~~ seven thousand five 63
hundred dollars, telecommunications fraud is a felony of the 64
fourth degree. If the value of the benefit obtained by the 65
offender or of the detriment to the victim of the fraud is ~~one~~ 66
~~hundred~~ seven thousand five hundred dollars or more but less than 67
one hundred fifty thousand dollars, telecommunications fraud is a 68
felony of the third degree. If the value of the benefit obtained 69
by the offender or of the detriment to the victims of the fraud is 70
one hundred fifty thousand dollars or more but less than one 71
million dollars, telecommunications fraud is a felony of the 72
second degree. If the value of the benefit obtained by the 73
offender or of the detriment to the victims of the fraud is one 74
million dollars or more, telecommunications fraud is a felony of 75
the first degree. 76

(D) If the victim of the offense is an elderly person or 77
disabled adult, a violation of this section is telecommunications 78
fraud perpetrated against an elderly person or disabled adult, and 79
division (D) of this section applies. Except as otherwise provided 80
in this division, telecommunications fraud perpetrated against an 81
elderly person or disabled adult is a felony of the fourth degree. 82
If the value of the benefit obtained by the offender or of the 83

detriment to the victims of the fraud is one thousand dollars or 84
more but less than seven thousand five hundred dollars, 85
telecommunications fraud perpetrated against an elderly person or 86
disabled adult is a felony of the third degree. If the value of 87
the benefit obtained by the offender or of the detriment to the 88
victims of the fraud is seven thousand five hundred dollars or 89
more but less than one hundred fifty thousand dollars, 90
telecommunications fraud perpetrated against an elderly person or 91
disabled adult is a felony of the second degree. If the value of 92
the benefit obtained by the offender or of the detriment to the 93
victims of the fraud is one hundred fifty thousand dollars or 94
more, telecommunications fraud perpetrated against an elderly 95
person or disabled adult is a felony of the first degree. 96

Sec. 4719.17. There is hereby created in the state treasury 97
the telemarketing fraud enforcement fund. The treasurer of state 98
shall deposit into the fund registration fees paid pursuant to 99
divisions (A) and (D) of section 4719.02 of the Revised Code. The 100
consumer protection section of the office of the attorney general 101
shall use the moneys in the fund ~~for the administration and~~ 102
~~enforcement of the program of registration established in sections~~ 103
~~4719.01 to 4719.18 of the Revised Code and also to pay for any~~ 104
expenses reasonably related to the administration of Chapter 4719. 105
of the Revised Code, the investigation or prosecution of any 106
crimes investigated by the consumer protection section, or for 107
educational activities that advance the purposes of ~~sections~~ 108
~~4719.01 to 4719.18~~ Chapter 4719. of the Revised Code as set forth 109
in section 4719.18 of the Revised Code. 110

Section 2. That existing sections 2913.05 and 4719.17 of the 111
Revised Code are hereby repealed. 112