



## Ohio Revised Code

### Section 109.88 Investigation, prosecution of telecommunications and telemarketing fraud.

Effective: March 2, 2022

Legislation: Senate Bill 54 - 134th General Assembly

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

(B) For purposes of an investigation under division (A) of this section, the attorney general may issue subpoenas and subpoenas duces tecum. The attorney general may compel the attendance of witnesses and the production of records and papers of all kinds and descriptions that are relevant to the 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. A subpoena or subpoena duces tecum issued by the attorney general under this section to a provider of electronic communication services or remote computing services shall be subject to the limitations set forth in the "Electronic Communications Privacy Act of 1986," 18 U.S.C. 2703.

(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.

(D) In order to initiate a criminal proceeding under this section, the attorney general shall first present in writing any evidence of a violation of section 2913.04 or 2913.05 of the Revised Code to the prosecuting attorney of a county in which the action may be brought. If within forty-five days the



prosecuting attorney has not presented the case to a grand jury, the attorney general may prosecute the case with all of the rights, privileges, and powers conferred by law on a prosecuting attorney, including the power to appear before a grand jury, to interrogate witnesses before a grand jury, and to handle a case that comes out of a grand jury to its procedural conclusion, including an indictment, plea, trial, sentencing, diversion, and appeal. These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.