

OH Electronic Crime Statutes

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2901.01

§ 2901.12. Venue.

(A) The trial of a criminal case in this state shall be held in a court having jurisdiction of the subject matter, and in the territory of which the offense or any element of the offense was committed.

(B) When the offense or any element of the offense was committed in an aircraft, motor vehicle, train, watercraft, or other vehicle, in transit, and it cannot reasonably be determined in which jurisdiction the offense was committed, the offender may be tried in any jurisdiction through which the aircraft, motor vehicle, train, watercraft, or other vehicle passed.

(C) When the offense involved the unlawful taking or receiving of property or the unlawful taking or enticing of another, the offender may be tried in any jurisdiction from which or into which the property or victim was taken, received, or enticed.

(D) When the offense is conspiracy, attempt, or complicity cognizable under division (A)(2) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the conspiracy, attempt, complicity, or any of its elements occurred.

(E) When the offense is conspiracy or attempt cognizable under division (A)(3) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the offense that was the object of the conspiracy or attempt, or any element of that offense, was intended to or could have taken place. When the offense is complicity cognizable under division (A)(3) of section 2901.11 of the Revised Code, the offender may be tried in any jurisdiction in which the principal offender may be tried.

(F) When an offense is considered to have been committed in this state while the offender was out of this state, and the jurisdiction in this state in which the offense or any material element of the offense was committed is not reasonably ascertainable, the offender may be tried in any jurisdiction in which the offense or element reasonably could have been committed.

(G) When it appears beyond a reasonable doubt that an offense or any element of an offense was committed in any of two or more jurisdictions, but it cannot reasonably be determined in which jurisdiction the offense or element was committed, the offender may be tried in any of those jurisdictions.

(H) When an offender, as part of a course of criminal conduct, commits offenses in different jurisdictions, the offender may be tried for all of those offenses in any jurisdiction in which one of those offenses or any element of one of those offenses occurred. Without limitation on the evidence that may be used to establish the course of criminal conduct, any of the following is prima-facie evidence of a course of criminal conduct:

(1) The offenses involved the same victim, or victims of the same type or from the same group.

(2) The offenses were committed by the offender in the offender's same employment, or capacity, or relationship to another.

(3) The offenses were committed as part of the same transaction or chain of events, or in furtherance of the same purpose or objective.

(4) The offenses were committed in furtherance of the same conspiracy.

(5) The offenses involved the same or a similar modus operandi.

(6) The offenses were committed along the offender's line of travel in this state, regardless of the offender's point of origin or destination.

(I) (1) When the offense involves a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, the offender may be tried in any jurisdiction containing any location of the computer, computer system, or computer network of the victim of the offense, in any jurisdiction from which or into which, as part of the offense, any writing, data, or image is disseminated or transmitted by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, or in any jurisdiction in which the alleged offender commits any activity that is an essential part of the offense.

(2) As used in this section, "computer," "computer system," "computer network," "information service," "telecommunication," "telecommunications device," "telecommunications service," "data," and "writing" have the same meanings as in section 2913.01 of the Revised Code.

(J) When the offense involves the death of a person, and it cannot reasonably be determined in which jurisdiction the offense was committed, the offender may be tried in the jurisdiction in which the dead person's body or any part of the dead person's body was found.

(K) Notwithstanding any other requirement for the place of trial, venue may be changed, upon motion of the prosecution, the defense, or the court, to any court having jurisdiction of the subject matter outside the county in which trial otherwise would be held, when it appears that a fair and impartial trial cannot be held in the jurisdiction in which trial otherwise would be held, or when it appears that trial should be held in another jurisdiction for the convenience of the parties and in the interests of justice.

HISTORY: 134 v H 511 (Eff 1-1-74); 141 v H 49 (Eff 6-26-86); 143 v S 64 (Eff 10-26-89); 147 v H 565. Eff 3-30-99.

§ 2913.01. Definitions.

As used in this chapter, unless the context requires that a term be given a different meaning:

(A) "Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

(B) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(C) "Deprive" means to do any of the following:

(1) Withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

- (2) Dispose of property so as to make it unlikely that the owner will recover it;
- (3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.
- (D) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.
- [\(E\) "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of section 2913.04 of the Revised Code, include cable services as defined in that section.](#)
- (F) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, typewritten, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.
- (G) "Forge" means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (H) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.
- (I) "Coin machine" means any mechanical or electronic device designed to do both of the following:
- (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.
- (J) "Slug" means an object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.
- (K) "Theft offense" means any of the following:
- (1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041 [2913.04.1], 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;
 - [\(2\) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in division \(K\)\(1\) of this section or a violation of section 2913.41, 2913.81, or 2915.06 of the Revised Code as it existed prior to July 1, 1996;](#)
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state, or of the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (K)(1), (2), or (3) of this section.

(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

(M) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

(N) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

(O) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

(P) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

(Q) "Computer software" means computer programs, procedures, and other documentation associated with the operation of a computer system.

(R) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network. For purposes of section 2913.47 of the Revised Code, "data" has the additional meaning set forth in division (A) of that section.

(S) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

(T) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network, or any cable service or cable system both as defined in section 2913.04 of the Revised Code.

(U) "Credit card" includes, but is not limited to, a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine. It also includes a county procurement card issued under section 301.29 of the Revised Code.

(V) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

(W) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.

(X) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.

(Y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

(Z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

(AA) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service.

"Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

(BB) (1) "Information service" means, subject to division (BB)(2) of this section, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.

(2) "Information service" does not include any use of a capability of a type described in division (BB)(1) of this section for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(CC) "Elderly person" means a person who is sixty-five years of age or older.

(DD) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

[\(EE\) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.](#)

[\(FF\) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.](#)

[\(GG\) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.](#)

[\(HH\) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.](#)

(II) (1) "Computer hacking" means any of the following:

(a) Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;

(b) Misusing computer or network services including, but not limited to, mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, "misuse of computer and network services" includes, but is not limited to, the unauthorized use of any of the following:

(i) Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;

(ii) File transfer program proxy services or proxy servers to access other computers, computer systems, or computer networks;

(iii) Web servers to redirect users to other web pages or web servers.

(c) (i) Subject to division (II)(1)(c)(ii) of this section, using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes, but is not limited to, those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including, but not limited to, operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

(ii) The group of computer programs referred to in division (II)(1)(c)(i) of this section does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including, but not limited to, domain name services, mail transfer services, and other operating system services, computer programs commonly called "ping," "tcpdump," and "traceroute" and other network monitoring and management computer software, and computer programs commonly known as "nslookup" and "whois" and other systems administration computer software.

(d) The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

(2) "Computer hacking" does not include the introduction of a computer contaminant, as defined in section 2909.02 of the Revised Code, into a computer, computer system, computer program, or computer network.

(II) Å "Police dog or horse" and "service dog" have the same meanings as in section 2921.321 [2921.32.1] of the Revised Code.

HISTORY: 134 v H 511 (Eff 1-1-74); 139 v H 437 (Eff 7-21-82); 140 v H 97 (Eff 3-20-84); 140 v S 183 (Eff 9-26-84); 141 v H 340 (Eff 5-20-86); 141 v H 49 (Eff 6-26-86); 142 v H 182 (Eff 7-7-87); 143 v H 347 (Eff 7-18-90); 146 v S 2 (Eff 7-1-96); 146 v S 277 (Eff 3-31-97); 147 v H 565 (Eff 3-30-99); 148 v H 2 (Eff 11-10-99); 149 v H 327. Eff 7-8-2002; 150 v S 82, § 1, eff. 2-12-04; 150 v S 146, § 1, eff. 9-23-04; 150 v H 369, § 1, eff. 11-26-04.

Å As enrolled, division (II). The first (II) was enacted by 150 v S 146, effective September 23, 2004

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

(B) No person, in any manner and by any means, including, but not limited to, computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied 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 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) The affirmative defenses contained in division (C) of section 2913.03 of the Revised Code are affirmative defenses to a charge under this section.

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

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

(3) Except as otherwise provided in division (E)(4) of this section, if unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:

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

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

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

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

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

(a) Except as otherwise provided in division (E)(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 five hundred dollars or more and is less than five thousand dollars, a felony of the fourth degree;

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

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

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

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

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

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

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

(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 (F)(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 five hundred dollars or more and is less than five thousand dollars, a felony of the fourth degree;

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

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

(G) 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.

(H) 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 interest in that cable system;

(b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

(2) "Cable service" means any of the following:

(a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;

(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 (H)(2)(a) of this section;

(c) Any cable television service.

(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:

(a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) Any facility that serves subscribers without using any public right-of-way;

(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);

(d) Any open video system that complies with 47 U.S.C.A. 573;

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

HISTORY: 134 v H 511 (Eff 1-1-74); 141 v H 49 (Eff 6-26-86); 146 v S 2 (Eff 7-1-96); 146 v S 269 (Eff 7-1-96); 147 v H 565 (Eff 3-30-99); 148 v H 2 (Eff 11-10-99); 149 v H 327. Eff 7-8-2002; 150 v H 12, § 1, eff. 4-8-04; 150 v S 146, § 1, eff. 9-23-04.

§ 2913.42. Tampering with records.

(A) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

(1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;

(2) Utter any writing or record, knowing it to have been tampered with as provided in division (A)(1) of this section.

(B) (1) Whoever violates this section is guilty of tampering with records.

(2) Except as provided in division (B)(4) of this section, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

(a) If division (B)(2)(b) of this section does not apply, a misdemeanor of the first degree;

(b) If the writing or record is a will unrevoked at the time of the offense, a felony of the fifth degree.

(3) Except as provided in division (B)(4) of this section, if the offense involves a violation of division (A) of this section involving data or computer software, tampering with records is whichever of the following is applicable:

(a) Except as otherwise provided in division (B)(3)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the value of the data or computer software involved in the offense or the loss to the victim is five hundred dollars or more and is less than five thousand dollars, a felony of the fifth degree;

(c) If the value of the data or computer software involved in the offense or the loss to the victim is five thousand dollars or more and is less than one hundred thousand dollars, a felony of the fourth degree;

(d) If the value of the data or computer software involved in the offense or the loss to the victim is one hundred thousand dollars or more or if the offense is committed for the

purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is five thousand dollars or more, a felony of the third degree.

(4) If the writing, data, computer software, or record is kept by or belongs to a local, state, or federal governmental entity, a felony of the third degree.

HISTORY: 134 v H 511 (Eff 1-1-74); 141 v H 49 (Eff 6-26-86); 141 v H 428 (Eff 12-23-86); 146 v S 2 (Eff 7-1-96); 147 v H 565. Eff 3-30-99.

(A) (1) Any property, other than contraband that is subject to the provisions of section 2913.34 or 2933.43 of the Revised Code, other than property that is subject to section 3719.141 [3719.14.1] of the Revised Code, other than property that is forfeited under sections 2923.44 to 2923.47 or 2925.41 to 2925.45 of the Revised Code, other than a vehicle that is criminally forfeited under an order issued under section 4503.233 [4503.23.3] or 4503.234 [4503.23.4] of the Revised Code and that is to be disposed of under section 4503.234 [4503.23.4] of the Revised Code, other than property that has been lawfully seized under sections 2933.71 to 2933.75 of the Revised Code in relation to a medicaid fraud offense, and other than property that has been lawfully seized in relation to a violation of section 2923.32 of the Revised Code, that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited, and that is in the custody of a law enforcement agency shall be kept safely pending the time it no longer is needed as evidence and shall be disposed of pursuant to this section. Each law enforcement agency that has custody of any property that is subject to this section shall adopt a written internal control policy that addresses the keeping of detailed records as to the amount of property taken in by the agency, that addresses the agency's disposition of the property under this section, that provides for the keeping of detailed records of the disposition of the property, and that provides for the keeping of detailed financial records of the amount and disposition of any proceeds of a sale of the property under division (D)(8) of this section and of the general types of expenditures made out of the proceeds retained by the agency and the specific amount expended on each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. The policy is a public record open for inspection under section 149.43 of the Revised Code.

(2) (a) Every law enforcement agency that has any lost, abandoned, stolen, seized, or forfeited property as described in division (A)(1) of this section in its custody shall comply with its written internal control policy adopted under that division relative to the property. Each agency that has any such property in its custody, except for property to be disposed of under division (D)(4) of this section, shall maintain an accurate record, in accordance with its written internal control policy, of each item of the property. The record shall include the date on which each item of property came into the agency's custody, the manner in which it was disposed of, the date of its disposition, the name of the person who received the property if it was not destroyed, and all other information required by the agency's written internal control policy; however, the record shall not identify or enable the identification of the individual officer who seized any item of property. The record of any property that no longer is needed as evidence, and all financial records of the amount and disposition of any proceeds of a sale under division (D)(8) of this section and of the general types of expenditures made out of the proceeds

retained by the agency and the specific amount of each general type of expenditure, shall be open to public inspection during the agency's regular business hours.

Each law enforcement agency that, during any calendar year, has any seized or forfeited property as described in division (A)(1) of this section in its custody shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the agency pursuant to this division for that calendar year and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(b) Each law enforcement agency that receives in any calendar year any proceeds of a sale under division (D)(8) of this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (D)(2)(a) of this section for that calendar year and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code.

(c) Not later than the fifteenth day of April in the calendar year in which reports are sent to the attorney general under divisions (A)(2)(a) and (b) of this section, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(i) Indicates that the attorney general has received from law enforcement agencies reports of the type described in division (A)(2)(a), (A)(2)(b), or both (A)(2)(a) and (b) of this section, whichever is applicable, that cover the previous calendar year and indicates that the reports were received under division (A)(2)(a), (A)(2)(b), or both (A)(2)(a) and (b) of this section, whichever is applicable;

(ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(iii) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(B) A law enforcement agency that has property in its possession that is required to be disposed of pursuant to this section shall make a reasonable effort to locate the persons entitled to possession of the property in its custody, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county, briefly describing the nature of the property in custody and inviting persons to view and establish their right to it.

(C) A person loses any right that the person may have to the possession, or the possession and ownership, of property if any of the following applies:

(1) The property was the subject, or was used in a conspiracy or attempt to commit, or in the commission, of an offense other than a traffic offense, and the person is a conspirator, accomplice, or offender with respect to the offense.

(2) A court determines that the property should be forfeited because, in light of the nature of the property or the circumstances of the person, it is unlawful for the person to acquire or possess the property.

(D) Unclaimed or forfeited property in the custody of a law enforcement agency, other than contraband that is subject to the provisions of section 2913.34 or 2933.43 of the Revised Code, other than property forfeited under sections 2923.44 to 2923.47 or 2925.41 to 2925.45 of the Revised Code, and other than property that has been lawfully seized in relation to a violation of section 2923.32 of the Revised Code, shall be disposed of on application to and order of any court of record that has territorial jurisdiction over the political subdivision in which the law enforcement agency has jurisdiction to engage in law enforcement activities, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (D)(8) of this section. Other firearms and dangerous ordnance shall be destroyed by the agency or shall be sent to the bureau of criminal identification and investigation for destruction by the bureau.

(3) Obscene materials shall be destroyed.

(4) Except as otherwise provided in division (D)(4) of this section, beer or intoxicating liquor seized by a law enforcement agency shall be destroyed. Intoxicating liquor seized by the investigative unit in the department of public safety may be distributed for training relating to law enforcement activities. Pursuant to rules the department adopts in accordance with Chapter 119. of the Revised Code, the department shall provide for the distribution of seized intoxicating liquor that is not distributed for training relating to its law enforcement activities, to state or local law enforcement agencies, upon their request, for training related to their law enforcement activities.

(5) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund if the sender is not known.

(6) Vehicles and vehicle parts forfeited under sections 4549.61 to 4549.63 of the Revised Code may be given to a law enforcement agency for use in the performance of its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the director of public safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(7) (a) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose. Other computers, computer networks, computer systems, and computer software shall be disposed of pursuant to division (D)(8) of this section.

(b) As used in this section, "computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.

(8) Other unclaimed or forfeited property, including personal property that is abandoned or relinquished by an inmate of a state correctional institution, with the approval of the court, may be used by the law enforcement agency that has possession of it. If the other

unclaimed or forfeited property is not used by the law enforcement agency, it may be sold, without appraisal, at a public auction to the highest bidder for cash, or, in the case of other unclaimed or forfeited moneys, disposed of in another manner that the court considers proper in the circumstances.

(E) (1) (a) If the property was in the possession of the law enforcement agency in relation to a delinquent child proceeding in a juvenile court, ten per cent of the proceeds from property disposed of pursuant to this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified by the court in its order issued under division (D) of this section. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (E)(1)(a) of this section, unless the program is located in the county in which the court that issues the orders is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state. The remaining ninety per cent of the proceeds shall be applied as provided in division (E)(1)(b) of this section.

If the property was in the possession of the law enforcement agency other than in relation to a delinquent child proceeding in a juvenile court, all of the proceeds from property disposed of pursuant to this section shall be applied as provided in division (E)(1)(b) of this section.

(b) Except as provided in divisions (D)(4), (5), and (E)(2) of this section and after compliance with division (E)(1)(a) of this section when that division is applicable, the proceeds from property disposed of pursuant to this section shall be placed in the general fund of the state, the county, the township, or the municipal corporation, of which the law enforcement agency involved is an agency.

(2) Each board of county commissioners that recognizes a citizens' reward program as provided in section 9.92 of the Revised Code shall notify each law enforcement agency of that county and each law enforcement agency of a township or municipal corporation wholly located in that county of the official recognition of the citizens' reward program by filing a copy of its resolution conferring that recognition with each of those law enforcement agencies. When the board of county commissioners of a county recognizes a citizens' reward program and the county includes a part, but not all, of the territory of a municipal corporation, the board shall so notify the law enforcement agency of that municipal corporation of the official recognition of the citizens' reward program only if the county contains the highest percentage of the municipal corporation's population. Upon receipt of a notice described in this division, each law enforcement agency shall pay twenty-five per cent of the proceeds from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively for the payment of rewards. No part of those funds may be used to pay for the administrative expenses or any other expenses associated with a citizens' reward program. If a citizens' reward program that operates in more than one county or in another state or states in addition to this state receives funds pursuant to this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning felonies, offenses

of violence, or misdemeanors that have been committed in the county from which the funds were received.

(F) This section does not apply to the collection, storage, or disposal of abandoned junk motor vehicles. This section shall not be construed to rescind or restrict the authority of a municipal law enforcement agency to keep and dispose of lost, abandoned, stolen, seized, or forfeited property under an ordinance of the municipal corporation or under sections 737.29 to 737.33 of the Revised Code, provided that, when a municipal corporation that has received notice as provided in division (E)(2) of this section disposes of property under an ordinance, it shall pay twenty-five per cent of the proceeds from any sale or auction to the citizens' reward program as provided under that division.

(G) The receipt of funds by a citizens' reward program pursuant to division (E) of this section does not make it a governmental unit for purposes of section 149.43 of the Revised Code and does not subject it to the disclosure provisions of that section.

(H) This section does not apply to the disposal of stolen or other property recovered by township law enforcement agencies pursuant to sections 505.105 [505.10.5] to 505.109 [505.10.9] of the Revised Code.

(I) (1) Subject to divisions (D)(1) to (7) of this section, and otherwise notwithstanding the provisions of this section, personal property that is subject to this section and that is abandoned or relinquished by an inmate of a state correctional institution may be destroyed or used by order of the warden of the institution, if either of the following apply:

(a) The value of the item is one hundred dollars or less, the state correctional institution has attempted to contact or identify the owner of the personal property, and those attempts have been unsuccessful.

(b) The inmate who owns the personal property agrees in writing to the disposal of the personal property in question.

(2) The department of rehabilitation and correction shall record the seizure and disposition of any personal property pursuant to division (I)(1) of this section, any attempts to contact or identify the owner of the personal property pursuant to division (I)(1)(a) of this section, and any agreement made pursuant to division (I)(1)(b) of this section.

(J) For purposes of this section, "law enforcement agency" includes correctional institutions, and "citizens' reward program" has the same meaning as in section 9.92 of the Revised Code. As used in division (H) of this section, "township law enforcement agencies" means an organized police department of a township, a township police district, a joint township police district, or the office of a township constable.

HISTORY: 134 v H 511 (Eff 1-1-74); 138 v S 50 (Eff 5-29-80); 139 v H 1 (Eff 8-5-81); 140 v H 632 (Eff 3-28-85); 140 v S 65 (Eff 4-4-85); 141 v H 49 (Eff 6-26-86); 141 v S 69 (Eff 9-3-86); 141 v H 428 (Eff 12-23-86); 143 v H 215 (Eff 4-11-90); 143 v S 258 (Eff 11-20-90); 144 v S 98 (Eff 11-12-92); 144 v S 275 (Eff 7-1-93)/D; 145 v H 715 (Eff 7-22-94); 146 v H 1 (Eff 1-1-96); 146 v S 277, § 1 (Eff 3-31-97); 146 v S 162 (Eff 7-1-97); 146 v S 277, § 3 (Eff 7-1-97); 147 v S 164 (Eff 1-15-98); 147 v H 2 (Eff 1-1-99); 147 v H 402 (Eff 3-30-99); 148 v H 55 (Eff 9-29-99); 149 v H 510. Eff 3-31-2003; 150 v H 306, § 1, eff. 7-23-04.

Å See provisions, §§ 4, 5 of SB 62 (145 v -), changing the effective date of SB 275 from 7-1-93 to 9-1-93 following RC § 2903.04.