



Ohio Revised Code

Section 2923.42 Participating in criminal gang.

Effective: July 1, 2007

Legislation: House Bill 241 - 126th General Assembly

(A) No person who actively participates in a criminal gang, with knowledge that the criminal gang engages in or has engaged in a pattern of criminal gang activity, shall purposely promote, further, or assist any criminal conduct, as defined in division (C) of section 2923.41 of the Revised Code, or shall purposely commit or engage in any act that constitutes criminal conduct, as defined in division (C) of section 2923.41 of the Revised Code.

(B) Whoever violates this section is guilty of participating in a criminal gang, a felony of the second degree.

(C)(1) Notwithstanding any contrary provision of any section of the Revised Code, the clerk of the court shall pay any fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code to the county, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (C)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the fines so paid in accordance with the written internal control policy adopted by the recipient agency under division (C)(2) of this section to subsidize the agency's law enforcement efforts that pertain to criminal gangs.

(2)(a) Prior to receiving any fine moneys under division (C)(1) of this section or division (B) of section 2923.44 of the Revised Code, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of 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. All financial records of the receipts of



those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under division (C)(2)(a) of this section is a public record open for inspection under section 149.43 of the Revised Code, and the agency that adopted the policy shall comply with it.

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (C)(1) of this section or division (B) of section 2923.44 of the Revised Code 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 (C)(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. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send the president of the senate and the speaker of the house of representatives a written notice 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 (C)(2)(b) of this section that cover the previous calendar year and indicates that the reports were received under division (C)(2)(b) of this section;

(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 reports to the president of the senate or the speaker of the house upon request.

(D) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections.