



Ohio Revised Code

Section 2929.71 Reimbursement of investigative costs of arson.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

(A) As used in this section:

(1) "Agency" means any law enforcement agency, other public agency, or public official involved in the investigation or prosecution of the offender or in the investigation of the fire or explosion in an aggravated arson, arson, or criminal damaging or endangering case. An "agency" includes, but is not limited to, a sheriff's office, a municipal corporation, township, or township or joint police district police department, the office of a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation, the fire marshal's office, a municipal corporation, township, or township fire district fire department, the office of a fire prevention officer, and any state, county, or municipal corporation crime laboratory.

(2) "Assets" includes all forms of real or personal property.

(3) "Itemized statement" means the statement of costs described in division (B) of this section.

(4) "Offender" means the person who has been convicted of or pleaded guilty to committing, attempting to commit, or complicity in committing a violation of section 2909.02 or 2909.03 of the Revised Code, or, when the means used are fire or explosion, division (A)(2) of section 2909.06 of the Revised Code.

(5) "Costs" means the reasonable value of the time spent by an officer or employee of an agency on the aggravated arson, arson, or criminal damaging or endangering case, any moneys spent by the agency on that case, and the reasonable fair market value of resources used or expended by the agency on that case.

(B) Prior to the sentencing of an offender, the court shall enter an order that directs agencies that wish to be reimbursed by the offender for the costs they incurred in the investigation or prosecution of the offender or in the investigation of the fire or explosion involved in the case, to file with the



court within a specified time an itemized statement of those costs. The order also shall require that a copy of the itemized statement be given to the offender or offender's attorney within the specified time. Only itemized statements so filed and given shall be considered at the hearing described in division (C) of this section.

(C) The court shall set a date for a hearing on all the itemized statements filed with it and given to the offender or the offender's attorney in accordance with division (B) of this section. The hearing shall be held prior to the sentencing of the offender, but may be held on the same day as the sentencing. Notice of the hearing date shall be given to the offender or the offender's attorney and to the agencies whose itemized statements are involved. At the hearing, each agency has the burden of establishing by a preponderance of the evidence that the costs set forth in its itemized statement were incurred in the investigation or prosecution of the offender or in the investigation of the fire or explosion involved in the case, and of establishing by a preponderance of the evidence that the offender has assets available for the reimbursement of all or a portion of the costs.

The offender may cross-examine all witnesses and examine all documentation presented by the agencies at the hearing, and the offender may present at the hearing witnesses and documentation the offender has obtained without a subpoena or a subpoena duces tecum or, in the case of documentation, that belongs to the offender. The offender also may issue subpoenas and subpoenas duces tecum for, and present and examine at the hearing, witnesses and documentation, subject to the following applying to the witnesses or documentation subpoenaed:

(1) The testimony of witnesses subpoenaed or documentation subpoenaed is material to the preparation or presentation by the offender of the offender's defense to the claims of the agencies for a reimbursement of costs;

(2) If witnesses to be subpoenaed are personnel of an agency or documentation to be subpoenaed belongs to an agency, the personnel or documentation may be subpoenaed only if the agency involved has indicated, pursuant to this division, that it intends to present the personnel as witnesses or use the documentation at the hearing. The offender shall submit, in writing, a request to an agency as described in this division to ascertain whether the agency intends to present various personnel as witnesses or to use particular documentation. The request shall indicate that the offender is considering issuing subpoenas to personnel of the agency who are specifically named or



identified by title or position, or for documentation of the agency that is specifically described or generally identified, and shall request the agency to indicate, in writing, whether it intends to present such personnel as witnesses or to use such documentation at the hearing. The agency shall promptly reply to the request of the offender. An agency is prohibited from presenting personnel as witnesses or from using documentation at the hearing if it indicates to the offender it does not intend to do so in response to a request of the offender under this division, or if it fails to reply or promptly reply to such a request.

(D) Following the hearing, the court shall determine which of the agencies established by a preponderance of the evidence that costs set forth in their itemized statements were incurred as described in division (C) of this section and that the offender has assets available for reimbursement purposes. The court also shall determine whether the offender has assets available to reimburse all such agencies, in whole or in part, for their established costs, and if it determines that the assets are available, it shall order the offender, as part of the offender's sentence, to reimburse the agencies from the offender's assets for all or a specified portion of their established costs.