

**As Reported by the Senate Judiciary--Criminal Justice Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. H. B. No. 29**

**Representatives Raussen, D. Evans, Distel, Aslanides, Allen, Raga, Driehaus, Trakas, Barrett, Daniels, Carano, McGregor, Reidelbach, Willamowski, Hartnett, Martin, Brinkman, Kearns, C. Evans, Blessing, Schaffer, Harwood, Miller, Beatty, Blasdel, Boccieri, Brown, Bulp, Buehrer, Calvert, Carmichael, Cassell, Chandler, Coley, Collier, DeBose, DeWine, Domenick, Faber, Fende, Fessler, Flowers, Garrison, Gibbs, Gilb, Hagan, Healy, Hoops, Hughes, Key, Kilbane, Latta, Law, Mason, Mitchell, Oelslager, Otterman, S. Patton, T. Patton, Perry, Redfern, Sayre, Schlichter, Schneider, Seaver, Seitz, Setzer, G. Smith, D. Stewart, J. Stewart, Sykes, Taylor, Uecker, Wagoner, Walcher, Webster, White, Widowfield, Wolpert, Woodard, Yates, Yuko**  
**Senators Jordan, Grendell, Schuring, Dann, Mallory, Zurz**

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**A B I L L**

To amend section 2919.251 of the Revised Code to 1  
require a person who is charged with an offense of 2  
violence involving a victim who is a family or 3  
household member and to whom any of a list of 4  
specified circumstances applies to appear before 5  
the court before the court sets bail for that 6  
person and to require the court to consider 7  
certain factors before setting bail for that 8  
person if the court is aware of certain specified 9  
information. 10

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

**Section 1.** That section 2919.251 of the Revised Code be 11

amended to read as follows: 12

**Sec. 2919.251.** (A) ~~If~~ Subject to division (D) of this 13  
section, a person who is charged with the commission of any 14  
offense of violence, shall appear before the court for the setting 15  
of bail if the alleged victim of the offense charged was a family 16  
or household member at the time of the offense, ~~and if~~ any of 17  
the following applies: 18

(1) The person charged, at the time of the alleged offense, 19  
was subject to the terms of a protection order issued or consent 20  
agreement approved pursuant to section 2919.26 or 3113.31 of the 21  
Revised Code or previously was convicted of or pleaded guilty to a 22  
violation of section 2919.25 of the Revised Code or a violation of 23  
section 2919.27 of the Revised Code involving a protection order 24  
or consent agreement of that type, a violation of an existing or 25  
former municipal ordinance or law of this or any other state or 26  
the United States that is substantially similar to either section, 27  
a violation of section 2909.06, 2909.07, 2911.12, or 2911.211 of 28  
the Revised Code if the victim of the violation was a family or 29  
household member at the time of the violation a violation of an 30  
existing or former municipal ordinance or law of this or any other 31  
state or the United States that is substantially similar to any of 32  
those sections if the victim of the violation was a family or 33  
household member at the time of the commission of the violation, 34  
or any offense of violence if the victim of the offense was a 35  
family or household member at the time of the offense, ~~the;~~ 36

(2) The arresting officer indicates in a police report or 37  
other document accompanying the complaint any of the following: 38

(a) That the arresting officer observed on the alleged victim 39  
objective manifestations of physical harm that the arresting 40  
officer reasonably believes are a result of the alleged offense; 41

(b) That the arresting officer reasonably believes that the person had on the person's person at the time of the alleged offense a deadly weapon or dangerous ordnance; 42  
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(c) That the arresting officer reasonably believes that the person presents a credible threat of serious physical harm to the alleged victim or to any other person if released on bail before trial. 45  
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(B) To the extent that information about any of the following is available to the court, the court shall consider all of the following, in addition to any other circumstances considered by the court and notwithstanding any provisions to the contrary contained in Criminal Rule 46, before setting bail for the a person who appears before the court pursuant to division (A) of this section: 49  
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(1) Whether the person has a history of domestic violence or a history of other violent acts; 56  
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(2) The mental health of the person; 58

(3) Whether the person has a history of violating the orders of any court or governmental entity; 59  
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(4) Whether the person is potentially a threat to any other person; 61  
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~~(5) Whether setting bail at a high level will interfere with any treatment or counseling that the person or the family of the person is undergoing~~ the person has access to deadly weapons or a history of using deadly weapons; 63  
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(6) Whether the person has a history of abusing alcohol or any controlled substance; 67  
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(7) The severity of the alleged violence that is the basis of the offense, including but not limited to, the duration of the alleged violent incident, and whether the alleged violent incident 69  
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involved serious physical injury, sexual assault, strangulation, 72  
abuse during the alleged victim's pregnancy, abuse of pets, or 73  
forcible entry to gain access to the alleged victim; 74

(8) Whether a separation of the person from the alleged 75  
victim or a termination of the relationship between the person and 76  
the alleged victim has recently occurred or is pending; 77

(9) Whether the person has exhibited obsessive or controlling 78  
behaviors toward the alleged victim, including but not limited to, 79  
stalking, surveillance, or isolation of the alleged victim; 80

(10) Whether the person has expressed suicidal or homicidal 81  
ideations; 82

(11) Any information contained in the complaint and any 83  
police reports, affidavits, or other documents accompanying the 84  
complaint. 85

~~(B)~~(C) Any court that has jurisdiction over charges alleging 86  
the commission of an offense of violence in circumstances in which 87  
the alleged victim of the offense was a family or household member 88  
at the time of the offense, may set a schedule for bail to be used 89  
in cases involving those offenses. The schedule shall require that 90  
a judge consider all of the factors listed in division ~~(A)~~(B) of 91  
this section and may require judges to set bail at a certain level 92  
if the history of the alleged offender or the circumstances of the 93  
alleged offense meet certain criteria in the schedule. 94

(D)(1) Upon the court's own motion or the motion of a party 95  
and upon any terms that the court may direct, a court may permit a 96  
person who is required to appear before it by division (A) of this 97  
section to appear by video conferencing equipment. 98

(2) If in the opinion of the court the appearance in person 99  
or by video conferencing equipment of a person who is charged with 100  
a misdemeanor and who is required to appear before the court by 101

division (A) of this section is not practicable, the court may 102  
waive the appearance and release the person on bail in accordance 103  
with the court's schedule for bail set under division (C) of this 104  
section or, if the court has not set a schedule for bail under 105  
that division, on one or both of the following types of bail in an 106  
amount set by the court: 107

(a) A bail bond secured by a deposit of ten per cent of the 108  
amount of the bond in cash; 109

(b) A surety bond, a bond secured by real estate or 110  
securities as allowed by law, or the deposit of cash, at the 111  
option of the person. 112

(3) Division (A) of this section does not create a right in a 113  
person to appear before the court for the setting of bail or 114  
prohibit a court from requiring any person charged with an offense 115  
of violence who is not described in that division from appearing 116  
before the court for the setting of bail. 117

(E) As used in this section: 118

(1) "Controlled substance" has the same meaning as in section 119  
3719.01 of the Revised Code. 120

(2) "Dangerous ordnance" and "deadly weapon" have the same 121  
meanings as in section 2923.11 of the Revised Code. 122

**Section 2.** That existing section 2919.251 of the Revised Code 123  
is hereby repealed. 124

**Section 3.** The General Assembly acknowledges the Supreme 125  
Court's authority to prescribe rules governing practice and 126  
procedure in the courts of this state, as provided by Section 5 of 127  
Article IV of the Ohio Constitution. Recognizing the dangers posed 128  
to victims of domestic violence and other crimes of violence when 129  
the alleged perpetrators are not physically restrained, even 130  
though they may be under bond or subject to orders of protection, 131

the General Assembly respectfully urges the Supreme Court to amend 132  
the existing Rules of Civil and Criminal Procedure, or to adopt 133  
new rules, to acknowledge the exigency of, give priority to, and 134  
otherwise encourage the speedy resolution of cases involving 135  
domestic violence. 136