

As Introduced

127th General Assembly
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H. B. No. 395

Representative Hughes

Cosponsors: Representatives Flowers, Wagoner, Evans, Yuko, Williams, S.

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A B I L L

To amend sections 2903.214, 3105.171, and 3113.31 and 1
to enact section 3113.311 of the Revised Code to 2
provide a procedure for the return of personal 3
property held by a law enforcement agency upon the 4
expiration or termination of a protection order 5
and to generally exclude a spouse's social 6
security benefits from a divorce court's 7
jurisdiction. 8

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

Section 1. That sections 2903.214, 3105.171, and 3113.31 be 9
amended and section 3113.311 of the Revised Code be enacted to 10
read as follows: 11

Sec. 2903.214. (A) As used in this section: 12

(1) "Court" means the court of common pleas of the county in 13
which the person to be protected by the protection order resides. 14

(2) "Victim advocate" means a person who provides support and 15
assistance for a person who files a petition under this section. 16

(3) "Family or household member" has the same meaning as in 17
section 3113.31 of the Revised Code. 18

(4) "Protection order issued by a court of another state" has 19
the same meaning as in section 2919.27 of the Revised Code. 20

(5) "Sexually oriented offense" has the same meaning as in 21
section 2950.01 of the Revised Code. 22

(B) The court has jurisdiction over all proceedings under 23
this section. 24

(C) A person may seek relief under this section for the 25
person, or any parent or adult household member may seek relief 26
under this section on behalf of any other family or household 27
member, by filing a petition with the court. The petition shall 28
contain or state both of the following: 29

(1) An allegation that the respondent engaged in a violation 30
of section 2903.211 of the Revised Code against the person to be 31
protected by the protection order or committed a sexually oriented 32
offense against the person to be protected by the protection 33
order, including a description of the nature and extent of the 34
violation; 35

(2) A request for relief under this section. 36

(D)(1) If a person who files a petition pursuant to this 37
section requests an ex parte order, the court shall hold an ex 38
parte hearing as soon as possible after the petition is filed, but 39
not later than the next day that the court is in session after the 40
petition is filed. The court, for good cause shown at the ex parte 41
hearing, may enter any temporary orders, with or without bond, 42
that the court finds necessary for the safety and protection of 43
the person to be protected by the order. Immediate and present 44
danger to the person to be protected by the protection order 45
constitutes good cause for purposes of this section. Immediate and 46
present danger includes, but is not limited to, situations in 47
which the respondent has threatened the person to be protected by 48
the protection order with bodily harm or in which the respondent 49

previously has been convicted of or pleaded guilty to a violation 50
of section 2903.211 of the Revised Code or a sexually oriented 51
offense against the person to be protected by the protection 52
order. 53

(2)(a) If the court, after an ex parte hearing, issues a 54
protection order described in division (E) of this section, the 55
court shall schedule a full hearing for a date that is within ten 56
court days after the ex parte hearing. The court shall give the 57
respondent notice of, and an opportunity to be heard at, the full 58
hearing. The court shall hold the full hearing on the date 59
scheduled under this division unless the court grants a 60
continuance of the hearing in accordance with this division. Under 61
any of the following circumstances or for any of the following 62
reasons, the court may grant a continuance of the full hearing to 63
a reasonable time determined by the court: 64

(i) Prior to the date scheduled for the full hearing under 65
this division, the respondent has not been served with the 66
petition filed pursuant to this section and notice of the full 67
hearing. 68

(ii) The parties consent to the continuance. 69

(iii) The continuance is needed to allow a party to obtain 70
counsel. 71

(iv) The continuance is needed for other good cause. 72

(b) An ex parte order issued under this section does not 73
expire because of a failure to serve notice of the full hearing 74
upon the respondent before the date set for the full hearing under 75
division (D)(2)(a) of this section or because the court grants a 76
continuance under that division. 77

(3) If a person who files a petition pursuant to this section 78
does not request an ex parte order, or if a person requests an ex 79
parte order but the court does not issue an ex parte order after 80

an ex parte hearing, the court shall proceed as in a normal civil 81
action and grant a full hearing on the matter. 82

(E)(1) After an ex parte or full hearing, the court may issue 83
any protection order, with or without bond, that contains terms 84
designed to ensure the safety and protection of the person to be 85
protected by the protection order, including, but not limited to, 86
a requirement that the respondent refrain from entering the 87
residence, school, business, or place of employment of the 88
petitioner or family or household member. If the court includes a 89
requirement that the respondent refrain from entering the 90
residence, school, business, or place of employment of the 91
petitioner or family or household member in the order, it also 92
shall include in the order provisions of the type described in 93
division (E)(5) of this section. 94

(2)(a) Any protection order issued pursuant to this section 95
shall be valid until a date certain but not later than five years 96
from the date of its issuance. 97

(b) Any protection order issued pursuant to this section may 98
be renewed in the same manner as the original order was issued. 99

(3) A court may not issue a protection order that requires a 100
petitioner to do or to refrain from doing an act that the court 101
may require a respondent to do or to refrain from doing under 102
division (E)(1) of this section unless all of the following apply: 103

(a) The respondent files a separate petition for a protection 104
order in accordance with this section. 105

(b) The petitioner is served with notice of the respondent's 106
petition at least forty-eight hours before the court holds a 107
hearing with respect to the respondent's petition, or the 108
petitioner waives the right to receive this notice. 109

(c) If the petitioner has requested an ex parte order 110
pursuant to division (D) of this section, the court does not delay 111

any hearing required by that division beyond the time specified in 112
that division in order to consolidate the hearing with a hearing 113
on the petition filed by the respondent. 114

(d) After a full hearing at which the respondent presents 115
evidence in support of the request for a protection order and the 116
petitioner is afforded an opportunity to defend against that 117
evidence, the court determines that the petitioner has committed a 118
violation of section 2903.211 of the Revised Code against the 119
person to be protected by the protection order issued pursuant to 120
this section, has committed a sexually oriented offense against 121
the person to be protected by the protection order, or has 122
violated a protection order issued pursuant to section 2903.213 of 123
the Revised Code relative to the person to be protected by the 124
protection order issued pursuant to this section. 125

(4) No protection order issued pursuant to this section shall 126
in any manner affect title to any real property. 127

(5)(a) If the court issues a protection order under this 128
section that includes a requirement that the alleged offender 129
refrain from entering the residence, school, business, or place of 130
employment of the petitioner or a family or household member, the 131
order shall clearly state that the order cannot be waived or 132
nullified by an invitation to the alleged offender from the 133
complainant to enter the residence, school, business, or place of 134
employment or by the alleged offender's entry into one of those 135
places otherwise upon the consent of the petitioner or family or 136
household member. 137

(b) Division (E)(5)(a) of this section does not limit any 138
discretion of a court to determine that an alleged offender 139
charged with a violation of section 2919.27 of the Revised Code, 140
with a violation of a municipal ordinance substantially equivalent 141
to that section, or with contempt of court, which charge is based 142
on an alleged violation of a protection order issued under this 143

section, did not commit the violation or was not in contempt of court. 144
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(6) Upon the issuance of an ex parte or final protection order under this section, the court shall provide the parties to the order with the following notice: 146
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"NOTICE 149

Any personal property received, confiscated, or otherwise obtained by a law enforcement agency pursuant to this protection order may only be returned if you file a written request under section 3113.311 of the Revised Code that includes your name, address, and a telephone number, if any, with the law enforcement agency not later than sixty (60) days after the expiration or other termination of this protection order. Termination of the protection order includes a dismissal of the petition for the protection order. If the property involved is a firearm, you must include an affidavit with your written request stating that you are not under any state or federal firearm disability. Failure to file a timely written request will result in disposal of the property." 150
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(F)(1) The court shall cause the delivery of a copy of any protection order that is issued under this section to the petitioner, to the respondent, and to all law enforcement agencies that have jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the respondent on the same day that the order is entered. 163
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(2) All law enforcement agencies shall establish and maintain an index for the protection orders delivered to the agencies pursuant to division (F)(1) of this section. With respect to each order delivered, each agency shall note on the index the date and time that it received the order. 169
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(3) Regardless of whether the petitioner has registered the 174

protection order in the county in which the officer's agency has 175
jurisdiction pursuant to division (M) of this section, any officer 176
of a law enforcement agency shall enforce a protection order 177
issued pursuant to this section by any court in this state in 178
accordance with the provisions of the order, including removing 179
the respondent from the premises, if appropriate. 180

(G) Any proceeding under this section shall be conducted in 181
accordance with the Rules of Civil Procedure, except that a 182
protection order may be obtained under this section with or 183
without bond. An order issued under this section, other than an ex 184
parte order, that grants a protection order, or that refuses to 185
grant a protection order, is a final, appealable order. The 186
remedies and procedures provided in this section are in addition 187
to, and not in lieu of, any other available civil or criminal 188
remedies. 189

(H) The filing of proceedings under this section does not 190
excuse a person from filing any report or giving any notice 191
required by section 2151.421 of the Revised Code or by any other 192
law. 193

(I) Any law enforcement agency that investigates an alleged 194
violation of section 2903.211 of the Revised Code or an alleged 195
commission of a sexually oriented offense shall provide 196
information to the victim and the family or household members of 197
the victim regarding the relief available under this section and 198
section 2903.213 of the Revised Code. 199

(J) Notwithstanding any provision of law to the contrary and 200
regardless of whether a protection order is issued or a consent 201
agreement is approved by a court of another county or by a court 202
of another state, no court or unit of state or local government 203
shall charge any fee, cost, deposit, or money in connection with 204
the filing of a petition pursuant to this section, in connection 205
with the filing, issuance, registration, or service of a 206

protection order or consent agreement, or for obtaining a	207
certified copy of a protection order or consent agreement.	208
(K)(1) A person who violates a protection order issued under	209
this section is subject to the following sanctions:	210
(a) Criminal prosecution for a violation of section 2919.27	211
of the Revised Code, if the violation of the protection order	212
constitutes a violation of that section;	213
(b) Punishment for contempt of court.	214
(2) The punishment of a person for contempt of court for	215
violation of a protection order issued under this section does not	216
bar criminal prosecution of the person for a violation of section	217
2919.27 of the Revised Code. However, a person punished for	218
contempt of court is entitled to credit for the punishment imposed	219
upon conviction of a violation of that section, and a person	220
convicted of a violation of that section shall not subsequently be	221
punished for contempt of court arising out of the same activity.	222
(L) In all stages of a proceeding under this section, a	223
petitioner may be accompanied by a victim advocate.	224
(M)(1) A petitioner who obtains a protection order under this	225
section or a protection order under section 2903.213 of the	226
Revised Code may provide notice of the issuance or approval of the	227
order to the judicial and law enforcement officials in any county	228
other than the county in which the order is issued by registering	229
that order in the other county pursuant to division (M)(2) of this	230
section and filing a copy of the registered order with a law	231
enforcement agency in the other county in accordance with that	232
division. A person who obtains a protection order issued by a	233
court of another state may provide notice of the issuance of the	234
order to the judicial and law enforcement officials in any county	235
of this state by registering the order in that county pursuant to	236
section 2919.272 of the Revised Code and filing a copy of the	237

registered order with a law enforcement agency in that county. 238

(2) A petitioner may register a protection order issued 239
pursuant to this section or section 2903.213 of the Revised Code 240
in a county other than the county in which the court that issued 241
the order is located in the following manner: 242

(a) The petitioner shall obtain a certified copy of the order 243
from the clerk of the court that issued the order and present that 244
certified copy to the clerk of the court of common pleas or the 245
clerk of a municipal court or county court in the county in which 246
the order is to be registered. 247

(b) Upon accepting the certified copy of the order for 248
registration, the clerk of the court of common pleas, municipal 249
court, or county court shall place an endorsement of registration 250
on the order and give the petitioner a copy of the order that 251
bears that proof of registration. 252

(3) The clerk of each court of common pleas, municipal court, 253
or county court shall maintain a registry of certified copies of 254
protection orders that have been issued by courts in other 255
counties pursuant to this section or section 2903.213 of the 256
Revised Code and that have been registered with the clerk. 257

(N) Upon the expiration or other termination of an ex parte 258
or final protection order issued under this section, any personal 259
property of a party to the protection order that is held by a law 260
enforcement agency pursuant to the terms of that protection order 261
shall be dealt with as provided in section 3113.311 of the Revised 262
Code. As used in this division, "termination of an ex parte or 263
final protection order" includes the dismissal of a petition for a 264
protection order filed under this section. 265

Sec. 3105.171. (A) As used in this section: 266

(1) "Distributive award" means any payment or payments, in 267

real or personal property, that are payable in a lump sum or over 268
time, in fixed amounts, that are made from separate property or 269
income, and that are not made from marital property and do not 270
constitute payments of spousal support, as defined in section 271
3105.18 of the Revised Code. 272

(2) "During the marriage" means whichever of the following is 273
applicable: 274

(a) Except as provided in division (A)(2)(b) of this section, 275
the period of time from the date of the marriage through the date 276
of the final hearing in an action for divorce or in an action for 277
legal separation; 278

(b) If the court determines that the use of either or both of 279
the dates specified in division (A)(2)(a) of this section would be 280
inequitable, the court may select dates that it considers 281
equitable in determining marital property. If the court selects 282
dates that it considers equitable in determining marital property, 283
"during the marriage" means the period of time between those dates 284
selected and specified by the court. 285

(3)(a) "Marital property" means, subject to division 286
(A)(3)(b) of this section, all of the following: 287

(i) All real and personal property that currently is owned by 288
either or both of the spouses, including, but not limited to, the 289
retirement benefits of the spouses, and that was acquired by 290
either or both of the spouses during the marriage; 291

(ii) All interest that either or both of the spouses 292
currently has in any real or personal property, including, but not 293
limited to, the retirement benefits of the spouses, and that was 294
acquired by either or both of the spouses during the marriage; 295

(iii) Except as otherwise provided in this section, all 296
income and appreciation on separate property, due to the labor, 297
monetary, or in-kind contribution of either or both of the spouses 298

that occurred during the marriage; 299

(iv) A participant account, as defined in section 148.01 of 300
the Revised Code, of either of the spouses, to the extent of the 301
following: the moneys that have been deferred by a continuing 302
member or participating employee, as defined in that section, and 303
that have been transmitted to the Ohio public employees deferred 304
compensation board during the marriage and any income that is 305
derived from the investment of those moneys during the marriage; 306
the moneys that have been deferred by an officer or employee of a 307
municipal corporation and that have been transmitted to the 308
governing board, administrator, depository, or trustee of the 309
deferred compensation program of the municipal corporation during 310
the marriage and any income that is derived from the investment of 311
those moneys during the marriage; or the moneys that have been 312
deferred by an officer or employee of a government unit, as 313
defined in section 148.06 of the Revised Code, and that have been 314
transmitted to the governing board, as defined in that section, 315
during the marriage and any income that is derived from the 316
investment of those moneys during the marriage. 317

(b) "Marital property" does not include any separate 318
property. 319

(4) "Passive income" means income acquired other than as a 320
result of the labor, monetary, or in-kind contribution of either 321
spouse. 322

(5) "Personal property" includes both tangible and intangible 323
personal property. 324

(6)(a) "Separate property" means all real and personal 325
property and any interest in real or personal property that is 326
found by the court to be any of the following: 327

(i) An inheritance by one spouse by bequest, devise, or 328
descent during the course of the marriage; 329

(ii) Any real or personal property or interest in real or personal property that was acquired by one spouse prior to the date of the marriage;	330 331 332
(iii) Passive income and appreciation acquired from separate property by one spouse during the marriage;	333 334
(iv) Any real or personal property or interest in real or personal property acquired by one spouse after a decree of legal separation issued under section 3105.17 of the Revised Code;	335 336 337
(v) Any real or personal property or interest in real or personal property that is excluded by a valid antenuptial agreement;	338 339 340
(vi) Compensation to a spouse for the spouse's personal injury, except for loss of marital earnings and compensation for expenses paid from marital assets;	341 342 343
(vii) Any gift of any real or personal property or of an interest in real or personal property that is made after the date of the marriage and that is proven by clear and convincing evidence to have been given to only one spouse.	344 345 346 347
(b) The commingling of separate property with other property of any type does not destroy the identity of the separate property as separate property, except when the separate property is not traceable.	348 349 350 351
(B) In divorce proceedings, the court shall, and in legal separation proceedings upon the request of either spouse, the court may, determine what constitutes marital property and what constitutes separate property. In either case, upon making such a determination, the court shall divide the marital and separate property equitably between the spouses, in accordance with this section. For purposes of this section, the court has jurisdiction over all property, <u>excluding the social security benefits of a spouse other than as set forth in division (F)(9) of this section.</u>	352 353 354 355 356 357 358 359 360

in which one or both spouses have an interest. 361

(C)(1) Except as provided in this division or division (E) of 362
this section, the division of marital property shall be equal. If 363
an equal division of marital property would be inequitable, the 364
court shall not divide the marital property equally but instead 365
shall divide it between the spouses in the manner the court 366
determines equitable. In making a division of marital property, 367
the court shall consider all relevant factors, including those set 368
forth in division (F) of this section. 369

(2) Each spouse shall be considered to have contributed 370
equally to the production and acquisition of marital property. 371

(3) The court shall provide for ~~an equitable~~ a division of 372
marital property under this section prior to making any award of 373
spousal support to either spouse under section 3105.18 of the 374
Revised Code and without regard to any spousal support so awarded. 375

(4) If the marital property includes a participant account, 376
as defined in section 148.01 of the Revised Code, the court shall 377
not order the division or disbursement of the moneys and income 378
described in division (A)(3)(a)(iv) of this section to occur in a 379
manner that is inconsistent with the law, rules, or plan governing 380
the deferred compensation program involved or prior to the time 381
that the spouse in whose name the participant account is 382
maintained commences receipt of the moneys and income credited to 383
the account in accordance with that law, rules, and plan. 384

(D) Except as otherwise provided in division (E) of this 385
section or by another provision of this section, the court shall 386
disburse a spouse's separate property to that spouse. If a court 387
does not disburse a spouse's separate property to that spouse, the 388
court shall make written findings of fact that explain the factors 389
that it considered in making its determination that the spouse's 390
separate property should not be disbursed to that spouse. 391

(E)(1) The court may make a distributive award to facilitate, 392
effectuate, or supplement a division of marital property. The 393
court may require any distributive award to be secured by a lien 394
on the payor's specific marital property or separate property. 395

(2) The court may make a distributive award in lieu of a 396
division of marital property in order to achieve equity between 397
the spouses, if the court determines that a division of the 398
marital property in kind or in money would be impractical or 399
burdensome. 400

(3) If a spouse has engaged in financial misconduct, 401
including, but not limited to, the dissipation, destruction, 402
concealment, or fraudulent disposition of assets, the court may 403
compensate the offended spouse with a distributive award or with a 404
greater award of marital property. 405

(F) In making a division of marital property and in 406
determining whether to make and the amount of any distributive 407
award under this section, the court shall consider all of the 408
following factors: 409

(1) The duration of the marriage; 410

(2) The assets and liabilities of the spouses; 411

(3) The desirability of awarding the family home, or the 412
right to reside in the family home for reasonable periods of time, 413
to the spouse with custody of the children of the marriage; 414

(4) The liquidity of the property to be distributed; 415

(5) The economic desirability of retaining intact an asset or 416
an interest in an asset; 417

(6) The tax consequences of the property division upon the 418
respective awards to be made to each spouse; 419

(7) The costs of sale, if it is necessary that an asset be 420
sold to effectuate an equitable distribution of property; 421

(8) Any division or disbursement of property made in a 422
separation agreement that was voluntarily entered into by the 423
spouses; 424

(9) Any retirement benefits of the spouses, excluding the 425
social security benefits of a spouse except as may be relevant for 426
purposes of dividing a public pension; 427

(10) Any other factor that the court expressly finds to be 428
relevant and equitable. 429

(G) In any order for the division or disbursement of property 430
or a distributive award made pursuant to this section, the court 431
shall make written findings of fact that support the determination 432
that the marital property has been ~~equitably~~ divided and shall 433
specify the dates it used in determining the meaning of "during 434
the marriage." 435

(H) Except as otherwise provided in this section, the holding 436
of title to property by one spouse individually or by both spouses 437
in a form of co-ownership does not determine whether the property 438
is marital property or separate property. 439

(I) A division or disbursement of property or a distributive 440
award made under this section is not subject to future 441
modification by the court. 442

(J) The court may issue any orders under this section that it 443
determines equitable, including, but not limited to, either of the 444
following types of orders: 445

(1) An order granting a spouse the right to use the marital 446
dwelling or any other marital property or separate property for 447
any reasonable period of time; 448

(2) An order requiring the sale or encumbrancing of any real 449
or personal property, with the proceeds from the sale and the 450
funds from any loan secured by the encumbrance to be applied as 451

determined by the court. 452

Sec. 3113.31. (A) As used in this section: 453

(1) "Domestic violence" means the occurrence of one or more 454
of the following acts against a family or household member: 455

(a) Attempting to cause or recklessly causing bodily injury; 456

(b) Placing another person by the threat of force in fear of 457
imminent serious physical harm or committing a violation of 458
section 2903.211 or 2911.211 of the Revised Code; 459

(c) Committing any act with respect to a child that would 460
result in the child being an abused child, as defined in section 461
2151.031 of the Revised Code; 462

(d) Committing a sexually oriented offense. 463

(2) "Court" means the domestic relations division of the 464
court of common pleas in counties that have a domestic relations 465
division, and the court of common pleas in counties that do not 466
have a domestic relations division. 467

(3) "Family or household member" means any of the following: 468

(a) Any of the following who is residing with or has resided 469
with the respondent: 470

(i) A spouse, a person living as a spouse, or a former spouse 471
of the respondent; 472

(ii) A parent or a child of the respondent, or another person 473
related by consanguinity or affinity to the respondent; 474

(iii) A parent or a child of a spouse, person living as a 475
spouse, or former spouse of the respondent, or another person 476
related by consanguinity or affinity to a spouse, person living as 477
a spouse, or former spouse of the respondent. 478

(b) The natural parent of any child of whom the respondent is 479

the other natural parent or is the putative other natural parent. 480

(4) "Person living as a spouse" means a person who is living 481
or has lived with the respondent in a common law marital 482
relationship, who otherwise is cohabiting with the respondent, or 483
who otherwise has cohabited with the respondent within five years 484
prior to the date of the alleged occurrence of the act in 485
question. 486

(5) "Victim advocate" means a person who provides support and 487
assistance for a person who files a petition under this section. 488

(6) "Sexually oriented offense" has the same meaning as in 489
section 2950.01 of the Revised Code. 490

(B) The court has jurisdiction over all proceedings under 491
this section. The petitioner's right to relief under this section 492
is not affected by the petitioner's leaving the residence or 493
household to avoid further domestic violence. 494

(C) A person may seek relief under this section on the 495
person's own behalf, or any parent or adult household member may 496
seek relief under this section on behalf of any other family or 497
household member, by filing a petition with the court. The 498
petition shall contain or state: 499

(1) An allegation that the respondent engaged in domestic 500
violence against a family or household member of the respondent, 501
including a description of the nature and extent of the domestic 502
violence; 503

(2) The relationship of the respondent to the petitioner, and 504
to the victim if other than the petitioner; 505

(3) A request for relief under this section. 506

(D)(1) If a person who files a petition pursuant to this 507
section requests an ex parte order, the court shall hold an ex 508
parte hearing on the same day that the petition is filed. The 509

court, for good cause shown at the ex parte hearing, may enter any 510
temporary orders, with or without bond, including, but not limited 511
to, an order described in division (E)(1)(a), (b), or (c) of this 512
section, that the court finds necessary to protect the family or 513
household member from domestic violence. Immediate and present 514
danger of domestic violence to the family or household member 515
constitutes good cause for purposes of this section. Immediate and 516
present danger includes, but is not limited to, situations in 517
which the respondent has threatened the family or household member 518
with bodily harm, in which the respondent has threatened the 519
family or household member with a sexually oriented offense, or in 520
which the respondent previously has been convicted of or pleaded 521
guilty to an offense that constitutes domestic violence against 522
the family or household member. 523

(2)(a) If the court, after an ex parte hearing, issues an 524
order described in division (E)(1)(b) or (c) of this section, the 525
court shall schedule a full hearing for a date that is within 526
seven court days after the ex parte hearing. If any other type of 527
protection order that is authorized under division (E) of this 528
section is issued by the court after an ex parte hearing, the 529
court shall schedule a full hearing for a date that is within ten 530
court days after the ex parte hearing. The court shall give the 531
respondent notice of, and an opportunity to be heard at, the full 532
hearing. The court shall hold the full hearing on the date 533
scheduled under this division unless the court grants a 534
continuance of the hearing in accordance with this division. Under 535
any of the following circumstances or for any of the following 536
reasons, the court may grant a continuance of the full hearing to 537
a reasonable time determined by the court: 538

(i) Prior to the date scheduled for the full hearing under 539
this division, the respondent has not been served with the 540
petition filed pursuant to this section and notice of the full 541

hearing.	542
(ii) The parties consent to the continuance.	543
(iii) The continuance is needed to allow a party to obtain counsel.	544 545
(iv) The continuance is needed for other good cause.	546
(b) An ex parte order issued under this section does not expire because of a failure to serve notice of the full hearing upon the respondent before the date set for the full hearing under division (D)(2)(a) of this section or because the court grants a continuance under that division.	547 548 549 550 551
(3) If a person who files a petition pursuant to this section does not request an ex parte order, or if a person requests an ex parte order but the court does not issue an ex parte order after an ex parte hearing, the court shall proceed as in a normal civil action and grant a full hearing on the matter.	552 553 554 555 556
(E)(1) After an ex parte or full hearing, the court may grant any protection order, with or without bond, or approve any consent agreement to bring about a cessation of domestic violence against the family or household members. The order or agreement may:	557 558 559 560
(a) Direct the respondent to refrain from abusing or from committing sexually oriented offenses against the family or household members;	561 562 563
(b) Grant possession of the residence or household to the petitioner or other family or household member, to the exclusion of the respondent, by evicting the respondent, when the residence or household is owned or leased solely by the petitioner or other family or household member, or by ordering the respondent to vacate the premises, when the residence or household is jointly owned or leased by the respondent, and the petitioner or other family or household member;	564 565 566 567 568 569 570 571

(c) When the respondent has a duty to support the petitioner 572
or other family or household member living in the residence or 573
household and the respondent is the sole owner or lessee of the 574
residence or household, grant possession of the residence or 575
household to the petitioner or other family or household member, 576
to the exclusion of the respondent, by ordering the respondent to 577
vacate the premises, or, in the case of a consent agreement, allow 578
the respondent to provide suitable, alternative housing; 579

(d) Temporarily allocate parental rights and responsibilities 580
for the care of, or establish temporary parenting time rights with 581
regard to, minor children, if no other court has determined, or is 582
determining, the allocation of parental rights and 583
responsibilities for the minor children or parenting time rights; 584

(e) Require the respondent to maintain support, if the 585
respondent customarily provides for or contributes to the support 586
of the family or household member, or if the respondent has a duty 587
to support the petitioner or family or household member; 588

(f) Require the respondent, petitioner, victim of domestic 589
violence, or any combination of those persons, to seek counseling; 590

(g) Require the respondent to refrain from entering the 591
residence, school, business, or place of employment of the 592
petitioner or family or household member; 593

(h) Grant other relief that the court considers equitable and 594
fair, including, but not limited to, ordering the respondent to 595
permit the use of a motor vehicle by the petitioner or other 596
family or household member and the apportionment of household and 597
family personal property. 598

(2) If a protection order has been issued pursuant to this 599
section in a prior action involving the respondent and the 600
petitioner or one or more of the family or household members or 601
victims, the court may include in a protection order that it 602

issues a prohibition against the respondent returning to the residence or household. If it includes a prohibition against the respondent returning to the residence or household in the order, it also shall include in the order provisions of the type described in division (E)(7) of this section. This division does not preclude the court from including in a protection order or consent agreement, in circumstances other than those described in this division, a requirement that the respondent be evicted from or vacate the residence or household or refrain from entering the residence, school, business, or place of employment of the petitioner or a family or household member, and, if the court includes any requirement of that type in an order or agreement, the court also shall include in the order provisions of the type described in division (E)(7) of this section.

(3)(a) Any protection order issued or consent agreement approved under this section shall be valid until a date certain, but not later than five years from the date of its issuance or approval unless modified or terminated as provided in division (E)(8) of this section.

(b) Subject to the limitation on the duration of an order or agreement set forth in division (E)(3)(a) of this section, any order under division (E)(1)(d) of this section shall terminate on the date that a court in an action for divorce, dissolution of marriage, or legal separation brought by the petitioner or respondent issues an order allocating parental rights and responsibilities for the care of children or on the date that a juvenile court in an action brought by the petitioner or respondent issues an order awarding legal custody of minor children. Subject to the limitation on the duration of an order or agreement set forth in division (E)(3)(a) of this section, any order under division (E)(1)(e) of this section shall terminate on the date that a court in an action for divorce, dissolution of

marriage, or legal separation brought by the petitioner or 635
respondent issues a support order or on the date that a juvenile 636
court in an action brought by the petitioner or respondent issues 637
a support order. 638

(c) Any protection order issued or consent agreement approved 639
pursuant to this section may be renewed in the same manner as the 640
original order or agreement was issued or approved. 641

(d) Upon the issuance of an ex parte or final protection 642
order or the approval of a consent agreement under this section, 643
the court shall provide the parties to the order or agreement with 644
the following notice: 645

"NOTICE 646

Any personal property received, confiscated, or otherwise 647
obtained by a law enforcement agency pursuant to this protection 648
order (or consent agreement) may only be returned if you file a 649
written request under section 3113.311 of the Revised Code that 650
includes your name, address, and a telephone number, if any, with 651
the law enforcement agency not later than sixty (60) days after 652
the expiration or other termination of this protection order (or 653
consent agreement). Termination of the protection order includes a 654
dismissal of the petition for the protection order. If the 655
property involved is a firearm, you must include an affidavit with 656
your written request stating that you are not under any state or 657
federal firearm disability. Failure to file a timely written 658
request will result in disposal of the property." 659

(4) A court may not issue a protection order that requires a 660
petitioner to do or to refrain from doing an act that the court 661
may require a respondent to do or to refrain from doing under 662
division (E)(1)(a), (b), (c), (d), (e), (g), or (h) of this 663
section unless all of the following apply: 664

(a) The respondent files a separate petition for a protection 665

order in accordance with this section. 666

(b) The petitioner is served notice of the respondent's 667
petition at least forty-eight hours before the court holds a 668
hearing with respect to the respondent's petition, or the 669
petitioner waives the right to receive this notice. 670

(c) If the petitioner has requested an ex parte order 671
pursuant to division (D) of this section, the court does not delay 672
any hearing required by that division beyond the time specified in 673
that division in order to consolidate the hearing with a hearing 674
on the petition filed by the respondent. 675

(d) After a full hearing at which the respondent presents 676
evidence in support of the request for a protection order and the 677
petitioner is afforded an opportunity to defend against that 678
evidence, the court determines that the petitioner has committed 679
an act of domestic violence or has violated a temporary protection 680
order issued pursuant to section 2919.26 of the Revised Code, that 681
both the petitioner and the respondent acted primarily as 682
aggressors, and that neither the petitioner nor the respondent 683
acted primarily in self-defense. 684

(5) No protection order issued or consent agreement approved 685
under this section shall in any manner affect title to any real 686
property. 687

(6)(a) If a petitioner, or the child of a petitioner, who 688
obtains a protection order or consent agreement pursuant to 689
division (E)(1) of this section or a temporary protection order 690
pursuant to section 2919.26 of the Revised Code and is the subject 691
of a parenting time order issued pursuant to section 3109.051 or 692
3109.12 of the Revised Code or a visitation or companionship order 693
issued pursuant to section 3109.051, 3109.11, or 3109.12 of the 694
Revised Code or division (E)(1)(d) of this section granting 695
parenting time rights to the respondent, the court may require the 696

public children services agency of the county in which the court 697
is located to provide supervision of the respondent's exercise of 698
parenting time or visitation or companionship rights with respect 699
to the child for a period not to exceed nine months, if the court 700
makes the following findings of fact: 701

(i) The child is in danger from the respondent; 702

(ii) No other person or agency is available to provide the 703
supervision. 704

(b) A court that requires an agency to provide supervision 705
pursuant to division (E)(6)(a) of this section shall order the 706
respondent to reimburse the agency for the cost of providing the 707
supervision, if it determines that the respondent has sufficient 708
income or resources to pay that cost. 709

(7)(a) If a protection order issued or consent agreement 710
approved under this section includes a requirement that the 711
respondent be evicted from or vacate the residence or household or 712
refrain from entering the residence, school, business, or place of 713
employment of the petitioner or a family or household member, the 714
order or agreement shall state clearly that the order or agreement 715
cannot be waived or nullified by an invitation to the respondent 716
from the petitioner or other family or household member to enter 717
the residence, school, business, or place of employment or by the 718
respondent's entry into one of those places otherwise upon the 719
consent of the petitioner or other family or household member. 720

(b) Division (E)(7)(a) of this section does not limit any 721
discretion of a court to determine that a respondent charged with 722
a violation of section 2919.27 of the Revised Code, with a 723
violation of a municipal ordinance substantially equivalent to 724
that section, or with contempt of court, which charge is based on 725
an alleged violation of a protection order issued or consent 726
agreement approved under this section, did not commit the 727

violation or was not in contempt of court. 728

(8)(a) The court may modify or terminate as provided in 729
division (E)(8) of this section a protection order or consent 730
agreement that was issued after a full hearing under this section. 731
The court that issued the protection order or approved the consent 732
agreement shall hear a motion for modification or termination of 733
the protection order or consent agreement pursuant to division 734
(E)(8) of this section. 735

(b) Either the petitioner or the respondent of the original 736
protection order or consent agreement may bring a motion for 737
modification or termination of a protection order or consent 738
agreement that was issued or approved after a full hearing. The 739
court shall require notice of the motion to be made as provided by 740
the Rules of Civil Procedure. If the petitioner for the original 741
protection order or consent agreement has requested that the 742
petitioner's address be kept confidential, the court shall not 743
disclose the address to the respondent of the original protection 744
order or consent agreement or any other person, except as 745
otherwise required by law. The moving party has the burden of 746
proof to show, by a preponderance of the evidence, that 747
modification or termination of the protection order or consent 748
agreement is appropriate because either the protection order or 749
consent agreement is no longer needed or because the terms of the 750
original protection order or consent agreement are no longer 751
appropriate. 752

(c) In considering whether to modify or terminate a 753
protection order or consent agreement issued or approved under 754
this section, the court shall consider all relevant factors, 755
including, but not limited to, the following: 756

(i) Whether the petitioner consents to modification or 757
termination of the protection order or consent agreement; 758

(ii) Whether the petitioner fears the respondent;	759
(iii) The current nature of the relationship between the petitioner and the respondent;	760 761
(iv) The circumstances of the petitioner and respondent, including the relative proximity of the petitioner's and respondent's workplaces and residences and whether the petitioner and respondent have minor children together;	762 763 764 765
(v) Whether the respondent has complied with the terms and conditions of the original protection order or consent agreement;	766 767
(vi) Whether the respondent has a continuing involvement with illegal drugs or alcohol;	768 769
(vii) Whether the respondent has been convicted of or pleaded guilty to an offense of violence since the issuance of the protection order or approval of the consent agreement;	770 771 772
(viii) Whether any other protection orders, consent agreements, restraining orders, or no contact orders have been issued against the respondent pursuant to this section, section 2919.26 of the Revised Code, any other provision of state law, or the law of any other state;	773 774 775 776 777
(ix) Whether the respondent has participated in any domestic violence treatment, intervention program, or other counseling addressing domestic violence and whether the respondent has completed the treatment, program, or counseling;	778 779 780 781
(x) The time that has elapsed since the protection order was issued or since the consent agreement was approved;	782 783
(xi) The age and health of the respondent;	784
(xii) When the last incident of abuse, threat of harm, or commission of a sexually oriented offense occurred or other relevant information concerning the safety and protection of the petitioner or other protected parties.	785 786 787 788

(d) If a protection order or consent agreement is modified or terminated as provided in division (E)(8) of this section, the court shall issue copies of the modified or terminated order or agreement as provided in division (F) of this section. A petitioner may also provide notice of the modification or termination to the judicial and law enforcement officials in any county other than the county in which the order or agreement is modified or terminated as provided in division (N) of this section.

(e) If the respondent moves for modification or termination of a protection order or consent agreement pursuant to this section, the court may assess costs against the respondent for the filing of the motion.

(9) Upon the expiration or other termination of an ex parte or final protection order issued under this section, or the expiration or other termination of a consent agreement approved under this section, any personal property of a party to the protection order or consent agreement that is held by a law enforcement agency pursuant to the terms of that order or agreement shall be dealt with as provided in section 3113.311 of the Revised Code. As used in division (E)(9) of this section, "termination of an ex parte or final protection order" includes the dismissal of a petition for a protection order filed under this section.

(F)(1) A copy of any protection order, or consent agreement, that is issued, approved, modified, or terminated under this section shall be issued by the court to the petitioner, to the respondent, and to all law enforcement agencies that have jurisdiction to enforce the order or agreement. The court shall direct that a copy of an order be delivered to the respondent on the same day that the order is entered.

(2) All law enforcement agencies shall establish and maintain

an index for the protection orders and the approved consent 821
agreements delivered to the agencies pursuant to division (F)(1) 822
of this section. With respect to each order and consent agreement 823
delivered, each agency shall note on the index the date and time 824
that it received the order or consent agreement. 825

(3) Regardless of whether the petitioner has registered the 826
order or agreement in the county in which the officer's agency has 827
jurisdiction pursuant to division (N) of this section, any officer 828
of a law enforcement agency shall enforce a protection order 829
issued or consent agreement approved by any court in this state in 830
accordance with the provisions of the order or agreement, 831
including removing the respondent from the premises, if 832
appropriate. 833

(G) Any proceeding under this section shall be conducted in 834
accordance with the Rules of Civil Procedure, except that an order 835
under this section may be obtained with or without bond. An order 836
issued under this section, other than an ex parte order, that 837
grants a protection order or approves a consent agreement, that 838
refuses to grant a protection order or approve a consent agreement 839
that modifies or terminates a protection order or consent 840
agreement, or that refuses to modify or terminate a protection 841
order or consent agreement, is a final, appealable order. The 842
remedies and procedures provided in this section are in addition 843
to, and not in lieu of, any other available civil or criminal 844
remedies. 845

(H) The filing of proceedings under this section does not 846
excuse a person from filing any report or giving any notice 847
required by section 2151.421 of the Revised Code or by any other 848
law. When a petition under this section alleges domestic violence 849
against minor children, the court shall report the fact, or cause 850
reports to be made, to a county, township, or municipal peace 851
officer under section 2151.421 of the Revised Code. 852

(I) Any law enforcement agency that investigates a domestic 853
dispute shall provide information to the family or household 854
members involved regarding the relief available under this section 855
and section 2919.26 of the Revised Code. 856

(J) Notwithstanding any provision of law to the contrary and 857
regardless of whether a protection order is issued or a consent 858
agreement is approved by a court of another county or a court of 859
another state, no court or unit of state or local government shall 860
charge any fee, cost, deposit, or money in connection with the 861
filing of a petition pursuant to this section or in connection 862
with the filing, issuance, registration, or service of a 863
protection order or consent agreement, or for obtaining a 864
certified copy of a protection order or consent agreement. 865

(K)(1) The court shall comply with Chapters 3119., 3121., 866
3123., and 3125. of the Revised Code when it makes or modifies an 867
order for child support under this section. 868

(2) If any person required to pay child support under an 869
order made under this section on or after April 15, 1985, or 870
modified under this section on or after December 31, 1986, is 871
found in contempt of court for failure to make support payments 872
under the order, the court that makes the finding, in addition to 873
any other penalty or remedy imposed, shall assess all court costs 874
arising out of the contempt proceeding against the person and 875
require the person to pay any reasonable attorney's fees of any 876
adverse party, as determined by the court, that arose in relation 877
to the act of contempt. 878

(L)(1) A person who violates a protection order issued or a 879
consent agreement approved under this section is subject to the 880
following sanctions: 881

(a) Criminal prosecution for a violation of section 2919.27 882
of the Revised Code, if the violation of the protection order or 883

consent agreement constitutes a violation of that section; 884

(b) Punishment for contempt of court. 885

(2) The punishment of a person for contempt of court for 886
violation of a protection order issued or a consent agreement 887
approved under this section does not bar criminal prosecution of 888
the person for a violation of section 2919.27 of the Revised Code. 889
However, a person punished for contempt of court is entitled to 890
credit for the punishment imposed upon conviction of a violation 891
of that section, and a person convicted of a violation of that 892
section shall not subsequently be punished for contempt of court 893
arising out of the same activity. 894

(M) In all stages of a proceeding under this section, a 895
petitioner may be accompanied by a victim advocate. 896

(N)(1) A petitioner who obtains a protection order or consent 897
agreement under this section or a temporary protection order under 898
section 2919.26 of the Revised Code may provide notice of the 899
issuance or approval of the order or agreement to the judicial and 900
law enforcement officials in any county other than the county in 901
which the order is issued or the agreement is approved by 902
registering that order or agreement in the other county pursuant 903
to division (N)(2) of this section and filing a copy of the 904
registered order or registered agreement with a law enforcement 905
agency in the other county in accordance with that division. A 906
person who obtains a protection order issued by a court of another 907
state may provide notice of the issuance of the order to the 908
judicial and law enforcement officials in any county of this state 909
by registering the order in that county pursuant to section 910
2919.272 of the Revised Code and filing a copy of the registered 911
order with a law enforcement agency in that county. 912

(2) A petitioner may register a temporary protection order, 913
protection order, or consent agreement in a county other than the 914

county in which the court that issued the order or approved the agreement is located in the following manner:

(a) The petitioner shall obtain a certified copy of the order or agreement from the clerk of the court that issued the order or approved the agreement and present that certified copy to the clerk of the court of common pleas or the clerk of a municipal court or county court in the county in which the order or agreement is to be registered.

(b) Upon accepting the certified copy of the order or agreement for registration, the clerk of the court of common pleas, municipal court, or county court shall place an endorsement of registration on the order or agreement and give the petitioner a copy of the order or agreement that bears that proof of registration.

(3) The clerk of each court of common pleas, the clerk of each municipal court, and the clerk of each county court shall maintain a registry of certified copies of temporary protection orders, protection orders, or consent agreements that have been issued or approved by courts in other counties and that have been registered with the clerk.

Sec. 3113.311. (A) Unless otherwise specified in this section:

(1) "Protection order" means any of the following:

(a) An ex parte or a final protection order issued under section 2903.214 or 3113.31 of the Revised Code;

(b) A consent agreement approved under section 3113.31 of the Revised Code.

(2) "Property" means tangible personal property.

(3) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Termination of a protection order" includes the 945
dismissal of a petition for a protection order. 946

(B) Upon the expiration or other termination of a protection 947
order, any law enforcement agency that is in possession of 948
property of a party to the protection order pursuant to the terms 949
of the protection order shall return that property to the party 950
from whom the property was received, confiscated, or otherwise 951
obtained, or take any action with respect to the property, in the 952
following manner: 953

(1) The party from whom the property was received, 954
confiscated, or otherwise obtained, within sixty days from the 955
date of the expiration or other termination of the protection 956
order, shall file a written request with the law enforcement 957
agency for the return of the property. The request shall include 958
the party's name, address, and a telephone number, if any, and a 959
copy of the dismissal of the petition for the protection order if 960
the petition was dismissed. Subject to division (B)(2) of this 961
section, the law enforcement agency shall return the property to 962
the party who filed the request for its return. 963

(2) If the property that is requested to be returned under 964
division (B)(1) of this section is a firearm, the request also 965
shall include an affidavit signed by the party requesting the 966
return of the firearm stating that the party is not under any 967
state or federal firearm disability. The law enforcement agency 968
shall make a reasonable attempt to determine whether or not the 969
party requesting the return of the firearm is under any state or 970
federal firearm disability. If the law enforcement agency 971
determines that the party requesting the return of the firearm is 972
under any state or federal firearm disability, the law enforcement 973
agency shall notify that party that it will not return the firearm 974
as a result of that disability. If the law enforcement agency 975
determines that the party requesting the return of the firearm is 976

not under any state or federal firearm disability, the law 977
enforcement agency shall return the firearm to the party as soon 978
as possible after making its determination. 979

(3) If the party seeking the return of the property does not 980
make the written request described in division (B)(1) of this 981
section within sixty days of the expiration or other termination 982
of the protection order or if the property that is requested to be 983
returned is a firearm and the requesting party is under any state 984
or federal firearm disability, the property shall be disposed of 985
in the manner provided by section 2981.11 of the Revised Code. 986

(C) A law enforcement agency has the authority as provided in 987
this section to retain possession of property that was received, 988
confiscated, or otherwise obtained pursuant to a protection order 989
notwithstanding the expiration or other termination of the 990
protection order. 991

Section 2. That existing sections 2903.214, 3105.171, and 992
3113.31 of the Revised Code are hereby repealed. 993