

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 244

Senator Sawyer

**Cosponsors: Senators Mason, Kearney, Cates, Coughlin, Goodman,
Schuler, Stivers**

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A BILL

To amend sections 2903.214 and 2919.27 of the Revised Code to require that certain persons who engage in menacing by stalking and against whom a civil order of protection is granted be electronically monitored and to authorize courts to require that certain persons convicted of violating a protection order that requires electronic monitoring be electronically monitored. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2903.214 and 2919.27 of the Revised Code be amended to read as follows: 9
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Sec. 2903.214. (A) As used in this section: 11

(1) "Court" means the court of common pleas of the county in which the person to be protected by the protection order resides. 12
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(2) "Victim advocate" means a person who provides support and assistance for a person who files a petition under this section. 14
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(3) "Family or household member" has the same meaning as in section 3113.31 of the Revised Code. 16
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(4) "Protection order issued by a court of another state" has 18
the same meaning as in section 2919.27 of the Revised Code. 19

(5) "Sexually oriented offense" has the same meaning as in 20
section 2950.01 of the Revised Code. 21

(6) "Electronic monitoring" has the same meaning as in 22
section 2929.01 of the Revised Code. 23

(B) The court has jurisdiction over all proceedings under 24
this section. 25

(C) A person may seek relief under this section for the 26
person, or any parent or adult household member may seek relief 27
under this section on behalf of any other family or household 28
member, by filing a petition with the court. The petition shall 29
contain or state ~~both~~ all of the following: 30

(1) An allegation that the respondent engaged in a violation 31
of section 2903.211 of the Revised Code against the person to be 32
protected by the protection order or committed a sexually oriented 33
offense against the person to be protected by the protection 34
order, including a description of the nature and extent of the 35
violation; 36

(2) If the petitioner seeks relief in the form of electronic 37
monitoring of the respondent, an allegation that for a period of 38
more than one year preceding the filing of the petition the 39
respondent engaged in conduct that would cause a reasonable person 40
to believe that the health, welfare, or safety of the person to be 41
protected was at risk, a description of the nature and extent of 42
that conduct, and an allegation that the respondent presents a 43
continuing danger to the person to be protected; 44

(3) A request for relief under this section. 45

(D)(1) If a person who files a petition pursuant to this 46
section requests an ex parte order, the court shall hold an ex 47

parte hearing as soon as possible after the petition is filed, but 48
not later than the next day that the court is in session after the 49
petition is filed. The court, for good cause shown at the ex parte 50
hearing, may enter any temporary orders, with or without bond, 51
that the court finds necessary for the safety and protection of 52
the person to be protected by the order. Immediate and present 53
danger to the person to be protected by the protection order 54
constitutes good cause for purposes of this section. Immediate and 55
present danger includes, but is not limited to, situations in 56
which the respondent has threatened the person to be protected by 57
the protection order with bodily harm or in which the respondent 58
previously has been convicted of or pleaded guilty to a violation 59
of section 2903.211 of the Revised Code or a sexually oriented 60
offense against the person to be protected by the protection 61
order. 62

(2)(a) If the court, after an ex parte hearing, issues a 63
protection order described in division (E) of this section, the 64
court shall schedule a full hearing for a date that is within ten 65
court days after the ex parte hearing. The court shall give the 66
respondent notice of, and an opportunity to be heard at, the full 67
hearing. The court shall hold the full hearing on the date 68
scheduled under this division unless the court grants a 69
continuance of the hearing in accordance with this division. Under 70
any of the following circumstances or for any of the following 71
reasons, the court may grant a continuance of the full hearing to 72
a reasonable time determined by the court: 73

(i) Prior to the date scheduled for the full hearing under 74
this division, the respondent has not been served with the 75
petition filed pursuant to this section and notice of the full 76
hearing. 77

(ii) The parties consent to the continuance. 78

(iii) The continuance is needed to allow a party to obtain 79

counsel.	80
(iv) The continuance is needed for other good cause.	81
(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.	82 83 84 85 86
(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.	87 88 89 90 91
(E)(1)(a) After an ex parte or full hearing, the court may issue any protection order, with or without bond, that contains terms designed to ensure the safety and protection of the person to be protected by the protection order, including, but not limited to, a requirement that the respondent refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member. If the court includes a requirement that the respondent refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member in the order, it also shall include in the order provisions of the type described in division (E)(5) of this section.	92 93 94 95 96 97 98 99 100 101 102 103
<u>(b) After a full hearing, if the court finds upon clear and convincing evidence that the petitioner reasonably believed that the respondent's conduct over the course of the year preceding the filing of the petition endangered the health, welfare, or safety of the person to be protected and that the respondent presents a continuing danger to the person to be protected, the court shall order that the respondent be electronically monitored for a period</u>	104 105 106 107 108 109 110

of time and under the terms and conditions that the court 111
determines are appropriate. Electronic monitoring shall be in 112
addition to any other relief granted to the petitioner. 113

(2)(a) Any protection order issued pursuant to this section 114
shall be valid until a date certain but not later than five years 115
from the date of its issuance. 116

(b) Any protection order issued pursuant to this section may 117
be renewed in the same manner as the original order was issued. 118

(3) A court may not issue a protection order that requires a 119
petitioner to do or to refrain from doing an act that the court 120
may require a respondent to do or to refrain from doing under 121
division (E)(1) of this section unless all of the following apply: 122

(a) The respondent files a separate petition for a protection 123
order in accordance with this section. 124

(b) The petitioner is served with notice of the respondent's 125
petition at least forty-eight hours before the court holds a 126
hearing with respect to the respondent's petition, or the 127
petitioner waives the right to receive this notice. 128

(c) If the petitioner has requested an ex parte order 129
pursuant to division (D) of this section, the court does not delay 130
any hearing required by that division beyond the time specified in 131
that division in order to consolidate the hearing with a hearing 132
on the petition filed by the respondent. 133

(d) After a full hearing at which the respondent presents 134
evidence in support of the request for a protection order and the 135
petitioner is afforded an opportunity to defend against that 136
evidence, the court determines that the petitioner has committed a 137
violation of section 2903.211 of the Revised Code against the 138
person to be protected by the protection order issued pursuant to 139
this section, has committed a sexually oriented offense against 140
the person to be protected by the protection order, or has 141

violated a protection order issued pursuant to section 2903.213 of 142
the Revised Code relative to the person to be protected by the 143
protection order issued pursuant to this section. 144

(4) No protection order issued pursuant to this section shall 145
in any manner affect title to any real property. 146

(5)(a) If the court issues a protection order under this 147
section that includes a requirement that the alleged offender 148
refrain from entering the residence, school, business, or place of 149
employment of the petitioner or a family or household member, the 150
order shall clearly state that the order cannot be waived or 151
nullified by an invitation to the alleged offender from the 152
complainant to enter the residence, school, business, or place of 153
employment or by the alleged offender's entry into one of those 154
places otherwise upon the consent of the petitioner or family or 155
household member. 156

(b) Division (E)(5)(a) of this section does not limit any 157
discretion of a court to determine that an alleged offender 158
charged with a violation of section 2919.27 of the Revised Code, 159
with a violation of a municipal ordinance substantially equivalent 160
to that section, or with contempt of court, which charge is based 161
on an alleged violation of a protection order issued under this 162
section, did not commit the violation or was not in contempt of 163
court. 164

(F)(1) The court shall cause the delivery of a copy of any 165
protection order that is issued under this section to the 166
petitioner, to the respondent, and to all law enforcement agencies 167
that have jurisdiction to enforce the order. The court shall 168
direct that a copy of the order be delivered to the respondent on 169
the same day that the order is entered. 170

(2) All law enforcement agencies shall establish and maintain 171
an index for the protection orders delivered to the agencies 172

pursuant to division (F)(1) of this section. With respect to each 173
order delivered, each agency shall note on the index the date and 174
time that it received the order. 175

(3) Regardless of whether the petitioner has registered the 176
protection order in the county in which the officer's agency has 177
jurisdiction pursuant to division (M) of this section, any officer 178
of a law enforcement agency shall enforce a protection order 179
issued pursuant to this section by any court in this state in 180
accordance with the provisions of the order, including removing 181
the respondent from the premises, if appropriate. 182

(G) Any proceeding under this section shall be conducted in 183
accordance with the Rules of Civil Procedure, except that a 184
protection order may be obtained under this section with or 185
without bond. An order issued under this section, other than an ex 186
parte order, that grants a protection order, or that refuses to 187
grant a protection order, is a final, appealable order. The 188
remedies and procedures provided in this section are in addition 189
to, and not in lieu of, any other available civil or criminal 190
remedies. 191

(H) The filing of proceedings under this section does not 192
excuse a person from filing any report or giving any notice 193
required by section 2151.421 of the Revised Code or by any other 194
law. 195

(I) Any law enforcement agency that investigates an alleged 196
violation of section 2903.211 of the Revised Code or an alleged 197
commission of a sexually oriented offense shall provide 198
information to the victim and the family or household members of 199
the victim regarding the relief available under this section and 200
section 2903.213 of the Revised Code. 201

(J) Notwithstanding any provision of law to the contrary and 202
regardless of whether a protection order is issued or a consent 203

agreement is approved by a court of another county or by a court 204
of another state, no court or unit of state or local government 205
shall charge any fee, cost, deposit, or money in connection with 206
the filing of a petition pursuant to this section, in connection 207
with the filing, issuance, registration, or service of a 208
protection order or consent agreement, or for obtaining a 209
certified copy of a protection order or consent agreement. 210

(K)(1) A person who violates a protection order issued under 211
this section is subject to the following sanctions: 212

(a) Criminal prosecution for a violation of section 2919.27 213
of the Revised Code, if the violation of the protection order 214
constitutes a violation of that section; 215

(b) Punishment for contempt of court. 216

(2) The punishment of a person for contempt of court for 217
violation of a protection order issued under this section does not 218
bar criminal prosecution of the person for a violation of section 219
2919.27 of the Revised Code. However, a person punished for 220
contempt of court is entitled to credit for the punishment imposed 221
upon conviction of a violation of that section, and a person 222
convicted of a violation of that section shall not subsequently be 223
punished for contempt of court arising out of the same activity. 224

(L) In all stages of a proceeding under this section, a 225
petitioner may be accompanied by a victim advocate. 226

(M)(1) A petitioner who obtains a protection order under this 227
section or a protection order under section 2903.213 of the 228
Revised Code may provide notice of the issuance or approval of the 229
order to the judicial and law enforcement officials in any county 230
other than the county in which the order is issued by registering 231
that order in the other county pursuant to division (M)(2) of this 232
section and filing a copy of the registered order with a law 233
enforcement agency in the other county in accordance with that 234

division. A person who obtains a protection order issued by a 235
court of another state may provide notice of the issuance of the 236
order to the judicial and law enforcement officials in any county 237
of this state by registering the order in that county pursuant to 238
section 2919.272 of the Revised Code and filing a copy of the 239
registered order with a law enforcement agency in that county. 240

(2) A petitioner may register a protection order issued 241
pursuant to this section or section 2903.213 of the Revised Code 242
in a county other than the county in which the court that issued 243
the order is located in the following manner: 244

(a) The petitioner shall obtain a certified copy of the order 245
from the clerk of the court that issued the order and present that 246
certified copy to the clerk of the court of common pleas or the 247
clerk of a municipal court or county court in the county in which 248
the order is to be registered. 249

(b) Upon accepting the certified copy of the order for 250
registration, the clerk of the court of common pleas, municipal 251
court, or county court shall place an endorsement of registration 252
on the order and give the petitioner a copy of the order that 253
bears that proof of registration. 254

(3) The clerk of each court of common pleas, municipal court, 255
or county court shall maintain a registry of certified copies of 256
protection orders that have been issued by courts in other 257
counties pursuant to this section or section 2903.213 of the 258
Revised Code and that have been registered with the clerk. 259

(N) If the court orders electronic monitoring of the 260
respondent under this section, the court shall direct the 261
sheriff's office or any other appropriate law enforcement agency 262
to install the electronic monitoring device and to monitor the 263
respondent and shall order the respondent to pay the cost of the 264
installation and monitoring of the electronic monitoring device. 265

Sec. 2919.27. (A) No person shall recklessly violate the	266
terms of any of the following:	267
(1) A protection order issued or consent agreement approved	268
pursuant to section 2919.26 or 3113.31 of the Revised Code;	269
(2) A protection order issued pursuant to section 2903.213 or	270
2903.214 of the Revised Code;	271
(3) A protection order issued by a court of another state.	272
(B)(1) Whoever violates this section is guilty of violating a	273
protection order.	274
(2) Except as otherwise provided in division (B)(3) or (4) of	275
this section, violating a protection order is a misdemeanor of the	276
first degree.	277
(3) If the offender previously has been convicted of or	278
pleaded guilty to a violation of a protection order issued	279
pursuant to section 2903.213 or 2903.214 of the Revised Code, two	280
or more violations of section 2903.21, 2903.211, 2903.22, or	281
2911.211 of the Revised Code that involved the same person who is	282
the subject of the protection order or consent agreement, or one	283
or more violations of this section, violating a protection order	284
is a felony of the fifth degree.	285
(4) If the offender violates a protection order or consent	286
agreement while committing a felony offense, violating a	287
protection order is a felony of the third degree.	288
<u>(5) If the protection order violated by the offender required</u>	289
<u>electronic monitoring of the offender pursuant to section 2903.214</u>	290
<u>of the Revised Code, the court may require in addition to any</u>	291
<u>other sentence imposed upon the offender that the offender be</u>	292
<u>electronically monitored for a period not exceeding five years by</u>	293
<u>a law enforcement agency designated by the court and that the</u>	294
<u>offender pay the costs of the installation of the electronic</u>	295

monitoring device and the cost of monitoring the electronic 296
monitoring device. 297

(C) It is an affirmative defense to a charge under division 298
(A)(3) of this section that the protection order issued by a court 299
of another state does not comply with the requirements specified 300
in 18 U.S.C. 2265(b) for a protection order that must be accorded 301
full faith and credit by a court of this state or that it is not 302
entitled to full faith and credit under 18 U.S.C. 2265(c). 303

(D) As used in this section, "protection order issued by a 304
court of another state" means an injunction or another order 305
issued by a criminal court of another state for the purpose of 306
preventing violent or threatening acts or harassment against, 307
contact or communication with, or physical proximity to another 308
person, including a temporary order, and means an injunction or 309
order of that nature issued by a civil court of another state, 310
including a temporary order and a final order issued in an 311
independent action or as a pendente lite order in a proceeding for 312
other relief, if the court issued it in response to a complaint, 313
petition, or motion filed by or on behalf of a person seeking 314
protection. "Protection order issued by a court of another state" 315
does not include an order for support or for custody of a child 316
issued pursuant to the divorce and child custody laws of another 317
state, except to the extent that the order for support or for 318
custody of a child is entitled to full faith and credit under the 319
laws of the United States. 320

Section 2. That existing sections 2903.214 and 2919.27 of the 321
Revised Code are hereby repealed. 322