

As Passed by the Senate

127th General Assembly

Regular Session

2007-2008

Sub. S. B. No. 244

Senator Sawyer

**Cosponsors: Senators Mason, Kearney, Cates, Coughlin, Goodman,
Schuler, Stivers, Fedor, Cafaro, Grendell, Harris, Miller, D., Miller, R., Morano,
Padgett, Patton, Roberts, Schaffer, Smith, Turner, Wagoner, Wilson**

—

A B I L L

To amend sections 2743.191, 2903.214, and 2919.27 of 1
the Revised Code to authorize the court to require 2
that certain persons who engage in menacing by 3
stalking and against whom a civil order of 4
protection is granted be electronically monitored 5
and to authorize the court to require that certain 6
persons convicted of violating a protection order 7
that requires electronic monitoring be 8
electronically monitored. 9

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

Section 1. That sections 2743.191, 2903.214, and 2919.27 of 10
the Revised Code be amended to read as follows: 11

Sec. 2743.191. (A)(1) There is hereby created in the state 12
treasury the reparations fund, which shall be used only for the 13
following purposes: 14

(a) The payment of awards of reparations that are granted by 15
the attorney general; 16

(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;	17 18 19
(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;	20 21
(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;	22 23
(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;	24 25
(f) The costs of investigation and decision-making as certified by the attorney general;	26 27
(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;	28 29 30
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	31 32 33
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	34 35 36
(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;	37 38 39 40 41 42
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding	43 44 45 46

those analyses into the DNA database pursuant to section 109.573 47
of the Revised Code; 48

(l) The payment of actual costs associated with initiatives 49
by the attorney general for the apprehension, prosecution, and 50
accountability of offenders, and the enhancing of services to 51
crime victims. The amount of payments made pursuant to division 52
(A)(1)(l) of this section during any given fiscal year shall not 53
exceed five per cent of the balance of the reparations fund at the 54
close of the immediately previous fiscal year; 55

(m) The costs of administering the adult parole authority's 56
supervision pursuant to division (E) of section 2971.05 of the 57
Revised Code of sexually violent predators who are sentenced to a 58
prison term pursuant to division (A)(3) of section 2971.03 of the 59
Revised Code and of offenders who are sentenced to a prison term 60
pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or 61
(c), or (B)(3)(a), (b), (c), or (d) of that section; 62

(n) The costs of installation and monitoring of an electronic 63
monitoring device used in the monitoring of a respondent pursuant 64
to an electronic monitoring order issued by a court under division 65
(E)(1)(b) of section 2903.214 of the Revised Code if the court 66
determines that the respondent is indigent or in the monitoring of 67
an offender pursuant to an electronic monitoring order issued 68
under division (B)(5) of section 2919.27 of the Revised Code if 69
the court determines that the offender is indigent. 70

(2) All costs paid pursuant to section 2743.70 of the Revised 71
Code, the portions of license reinstatement fees mandated by 72
division (F)(2)(b) of section 4511.191 of the Revised Code to be 73
credited to the fund, the portions of the proceeds of the sale of 74
a forfeited vehicle specified in division (C)(2) of section 75
4503.234 of the Revised Code, payments collected by the department 76
of rehabilitation and correction from prisoners who voluntarily 77
participate in an approved work and training program pursuant to 78

division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and 79
all moneys collected by the state pursuant to its right of 80
subrogation provided in section 2743.72 of the Revised Code shall 81
be deposited in the fund. 82

(B) In making an award of reparations, the attorney general 83
shall render the award against the state. The award shall be 84
accomplished only through the following procedure, and the 85
following procedure may be enforced by writ of mandamus directed 86
to the appropriate official: 87

(1) The attorney general shall provide for payment of the 88
claimant or providers in the amount of the award only if the 89
amount of the award is fifty dollars or more. 90

(2) The expense shall be charged against all available 91
unencumbered moneys in the fund. 92

(3) If sufficient unencumbered moneys do not exist in the 93
fund, the attorney general shall make application for payment of 94
the award out of the emergency purposes account or any other 95
appropriation for emergencies or contingencies, and payment out of 96
this account or other appropriation shall be authorized if there 97
are sufficient moneys greater than the sum total of then pending 98
emergency purposes account requests or requests for releases from 99
the other appropriations. 100

(4) If sufficient moneys do not exist in the account or any 101
other appropriation for emergencies or contingencies to pay the 102
award, the attorney general shall request the general assembly to 103
make an appropriation sufficient to pay the award, and no payment 104
shall be made until the appropriation has been made. The attorney 105
general shall make this appropriation request during the current 106
biennium and during each succeeding biennium until a sufficient 107
appropriation is made. If, prior to the time that an appropriation 108
is made by the general assembly pursuant to this division, the 109

fund has sufficient unencumbered funds to pay the award or part of 110
the award, the available funds shall be used to pay the award or 111
part of the award, and the appropriation request shall be amended 112
to request only sufficient funds to pay that part of the award 113
that is unpaid. 114

(C) The attorney general shall not make payment on a decision 115
or order granting an award until all appeals have been determined 116
and all rights to appeal exhausted, except as otherwise provided 117
in this section. If any party to a claim for an award of 118
reparations appeals from only a portion of an award, and a 119
remaining portion provides for the payment of money by the state, 120
that part of the award calling for the payment of money by the 121
state and not a subject of the appeal shall be processed for 122
payment as described in this section. 123

(D) The attorney general shall prepare itemized bills for the 124
costs of printing and distributing the pamphlet the attorney 125
general prepares pursuant to section 109.42 of the Revised Code. 126
The itemized bills shall set forth the name and address of the 127
persons owed the amounts set forth in them. 128

(E) As used in this section, "DNA analysis" and "DNA 129
specimen" have the same meanings as in section 109.573 of the 130
Revised Code. 131

Sec. 2903.214. (A) As used in this section: 132

(1) "Court" means the court of common pleas of the county in 133
which the person to be protected by the protection order resides. 134

(2) "Victim advocate" means a person who provides support and 135
assistance for a person who files a petition under this section. 136

(3) "Family or household member" has the same meaning as in 137
section 3113.31 of the Revised Code. 138

(4) "Protection order issued by a court of another state" has 139

the same meaning as in section 2919.27 of the Revised Code. 140

(5) "Sexually oriented offense" has the same meaning as in 141
section 2950.01 of the Revised Code. 142

(6) "Electronic monitoring" has the same meaning as in 143
section 2929.01 of the Revised Code. 144

(B) The court has jurisdiction over all proceedings under 145
this section. 146

(C) A person may seek relief under this section for the 147
person, or any parent or adult household member may seek relief 148
under this section on behalf of any other family or household 149
member, by filing a petition with the court. The petition shall 150
contain or state ~~both~~ all of the following: 151

(1) An allegation that the respondent engaged in a violation 152
of section 2903.211 of the Revised Code against the person to be 153
protected by the protection order or committed a sexually oriented 154
offense against the person to be protected by the protection 155
order, including a description of the nature and extent of the 156
violation; 157

(2) If the petitioner seeks relief in the form of electronic 158
monitoring of the respondent, an allegation that at any time 159
preceding the filing of the petition the respondent engaged in 160
conduct that would cause a reasonable person to believe that the 161
health, welfare, or safety of the person to be protected was at 162
risk, a description of the nature and extent of that conduct, and 163
an allegation that the respondent presents a continuing danger to 164
the person to be protected; 165

(3) A request for relief under this section. 166

(D)(1) If a person who files a petition pursuant to this 167
section requests an ex parte order, the court shall hold an ex 168
parte hearing as soon as possible after the petition is filed, but 169

not later than the next day that the court is in session after the 170
petition is filed. The court, for good cause shown at the ex parte 171
hearing, may enter any temporary orders, with or without bond, 172
that the court finds necessary for the safety and protection of 173
the person to be protected by the order. Immediate and present 174
danger to the person to be protected by the protection order 175
constitutes good cause for purposes of this section. Immediate and 176
present danger includes, but is not limited to, situations in 177
which the respondent has threatened the person to be protected by 178
the protection order with bodily harm or in which the respondent 179
previously has been convicted of or pleaded guilty to a violation 180
of section 2903.211 of the Revised Code or a sexually oriented 181
offense against the person to be protected by the protection 182
order. 183

(2)(a) If the court, after an ex parte hearing, issues a 184
protection order described in division (E) of this section, the 185
court shall schedule a full hearing for a date that is within ten 186
court days after the ex parte hearing. The court shall give the 187
respondent notice of, and an opportunity to be heard at, the full 188
hearing. The court shall hold the full hearing on the date 189
scheduled under this division unless the court grants a 190
continuance of the hearing in accordance with this division. Under 191
any of the following circumstances or for any of the following 192
reasons, the court may grant a continuance of the full hearing to 193
a reasonable time determined by the court: 194

(i) Prior to the date scheduled for the full hearing under 195
this division, the respondent has not been served with the 196
petition filed pursuant to this section and notice of the full 197
hearing. 198

(ii) The parties consent to the continuance. 199

(iii) The continuance is needed to allow a party to obtain 200
counsel. 201

(iv) The continuance is needed for other good cause.	202
(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.	203 204 205 206 207
(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.	208 209 210 211 212
(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.	213 214 215 216 217 218 219 220 221 222 223 224
<u>(b) After a full hearing, if the court considering a petition that includes an allegation of the type described in division (C)(2) of this section, or the court upon its own motion, finds upon clear and convincing evidence that the petitioner reasonably believed that the respondent's conduct at any time 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 may order that the respondent be electronically monitored for a period</u>	225 226 227 228 229 230 231 232 233

of time and under the terms and conditions that the court 234
determines are appropriate. Electronic monitoring shall be in 235
addition to any other relief granted to the petitioner. 236

(2)(a) Any protection order issued pursuant to this section 237
shall be valid until a date certain but not later than five years 238
from the date of its issuance. 239

(b) Any protection order issued pursuant to this section may 240
be renewed in the same manner as the original order was issued. 241

(3) A court may not issue a protection order that requires a 242
petitioner to do or to refrain from doing an act that the court 243
may require a respondent to do or to refrain from doing under 244
division (E)(1) of this section unless all of the following apply: 245

(a) The respondent files a separate petition for a protection 246
order in accordance with this section. 247

(b) The petitioner is served with notice of the respondent's 248
petition at least forty-eight hours before the court holds a 249
hearing with respect to the respondent's petition, or the 250
petitioner waives the right to receive this notice. 251

(c) If the petitioner has requested an ex parte order 252
pursuant to division (D) of this section, the court does not delay 253
any hearing required by that division beyond the time specified in 254
that division in order to consolidate the hearing with a hearing 255
on the petition filed by the respondent. 256

(d) After a full hearing at which the respondent presents 257
evidence in support of the request for a protection order and the 258
petitioner is afforded an opportunity to defend against that 259
evidence, the court determines that the petitioner has committed a 260
violation of section 2903.211 of the Revised Code against the 261
person to be protected by the protection order issued pursuant to 262
this section, has committed a sexually oriented offense against 263
the person to be protected by the protection order, or has 264

violated a protection order issued pursuant to section 2903.213 of 265
the Revised Code relative to the person to be protected by the 266
protection order issued pursuant to this section. 267

(4) No protection order issued pursuant to this section shall 268
in any manner affect title to any real property. 269

(5)(a) If the court issues a protection order under this 270
section that includes a requirement that the alleged offender 271
refrain from entering the residence, school, business, or place of 272
employment of the petitioner or a family or household member, the 273
order shall clearly state that the order cannot be waived or 274
nullified by an invitation to the alleged offender from the 275
complainant to enter the residence, school, business, or place of 276
employment or by the alleged offender's entry into one of those 277
places otherwise upon the consent of the petitioner or family or 278
household member. 279

(b) Division (E)(5)(a) of this section does not limit any 280
discretion of a court to determine that an alleged offender 281
charged with a violation of section 2919.27 of the Revised Code, 282
with a violation of a municipal ordinance substantially equivalent 283
to that section, or with contempt of court, which charge is based 284
on an alleged violation of a protection order issued under this 285
section, did not commit the violation or was not in contempt of 286
court. 287

(F)(1) The court shall cause the delivery of a copy of any 288
protection order that is issued under this section to the 289
petitioner, to the respondent, and to all law enforcement agencies 290
that have jurisdiction to enforce the order. The court shall 291
direct that a copy of the order be delivered to the respondent on 292
the same day that the order is entered. 293

(2) All law enforcement agencies shall establish and maintain 294
an index for the protection orders delivered to the agencies 295

pursuant to division (F)(1) of this section. With respect to each 296
order delivered, each agency shall note on the index the date and 297
time that it received the order. 298

(3) Regardless of whether the petitioner has registered the 299
protection order in the county in which the officer's agency has 300
jurisdiction pursuant to division (M) of this section, any officer 301
of a law enforcement agency shall enforce a protection order 302
issued pursuant to this section by any court in this state in 303
accordance with the provisions of the order, including removing 304
the respondent from the premises, if appropriate. 305

(G) Any proceeding under this section shall be conducted in 306
accordance with the Rules of Civil Procedure, except that a 307
protection order may be obtained under this section with or 308
without bond. An order issued under this section, other than an ex 309
parte order, that grants a protection order, or that refuses to 310
grant a protection order, is a final, appealable order. The 311
remedies and procedures provided in this section are in addition 312
to, and not in lieu of, any other available civil or criminal 313
remedies. 314

(H) The filing of proceedings under this section does not 315
excuse a person from filing any report or giving any notice 316
required by section 2151.421 of the Revised Code or by any other 317
law. 318

(I) Any law enforcement agency that investigates an alleged 319
violation of section 2903.211 of the Revised Code or an alleged 320
commission of a sexually oriented offense shall provide 321
information to the victim and the family or household members of 322
the victim regarding the relief available under this section and 323
section 2903.213 of the Revised Code. 324

(J) Notwithstanding any provision of law to the contrary and 325
regardless of whether a protection order is issued or a consent 326

agreement is approved by a court of another county or by a court 327
of another state, no court or unit of state or local government 328
shall charge any fee, cost, deposit, or money in connection with 329
the filing of a petition pursuant to this section, in connection 330
with the filing, issuance, registration, or service of a 331
protection order or consent agreement, or for obtaining a 332
certified copy of a protection order or consent agreement. 333

(K)(1) A person who violates a protection order issued under 334
this section is subject to the following sanctions: 335

(a) Criminal prosecution for a violation of section 2919.27 336
of the Revised Code, if the violation of the protection order 337
constitutes a violation of that section; 338

(b) Punishment for contempt of court. 339

(2) The punishment of a person for contempt of court for 340
violation of a protection order issued under this section does not 341
bar criminal prosecution of the person for a violation of section 342
2919.27 of the Revised Code. However, a person punished for 343
contempt of court is entitled to credit for the punishment imposed 344
upon conviction of a violation of that section, and a person 345
convicted of a violation of that section shall not subsequently be 346
punished for contempt of court arising out of the same activity. 347

(L) In all stages of a proceeding under this section, a 348
petitioner may be accompanied by a victim advocate. 349

(M)(1) A petitioner who obtains a protection order under this 350
section or a protection order under section 2903.213 of the 351
Revised Code may provide notice of the issuance or approval of the 352
order to the judicial and law enforcement officials in any county 353
other than the county in which the order is issued by registering 354
that order in the other county pursuant to division (M)(2) of this 355
section and filing a copy of the registered order with a law 356
enforcement agency in the other county in accordance with that 357

division. A person who obtains a protection order issued by a 358
court of another state may provide notice of the issuance of the 359
order to the judicial and law enforcement officials in any county 360
of this state by registering the order in that county pursuant to 361
section 2919.272 of the Revised Code and filing a copy of the 362
registered order with a law enforcement agency in that county. 363

(2) A petitioner may register a protection order issued 364
pursuant to this section or section 2903.213 of the Revised Code 365
in a county other than the county in which the court that issued 366
the order is located in the following manner: 367

(a) The petitioner shall obtain a certified copy of the order 368
from the clerk of the court that issued the order and present that 369
certified copy to the clerk of the court of common pleas or the 370
clerk of a municipal court or county court in the county in which 371
the order is to be registered. 372

(b) Upon accepting the certified copy of the order for 373
registration, the clerk of the court of common pleas, municipal 374
court, or county court shall place an endorsement of registration 375
on the order and give the petitioner a copy of the order that 376
bears that proof of registration. 377

(3) The clerk of each court of common pleas, municipal court, 378
or county court shall maintain a registry of certified copies of 379
protection orders that have been issued by courts in other 380
counties pursuant to this section or section 2903.213 of the 381
Revised Code and that have been registered with the clerk. 382

(N) If the court orders electronic monitoring of the 383
respondent under this section, the court shall direct the 384
sheriff's office or any other appropriate law enforcement agency 385
to install the electronic monitoring device and to monitor the 386
respondent. Unless the court determines that the respondent is 387
indigent, the court shall order the respondent to pay the cost of 388

the installation and monitoring of the electronic monitoring 389
device. If the court determines that the respondent is indigent, 390
the cost of the installation and monitoring of the electronic 391
monitoring device shall be paid out of funds from the reparations 392
fund created pursuant to section 2743.191 of the Revised Code. 393

Sec. 2919.27. (A) No person shall recklessly violate the 394
terms of any of the following: 395

(1) A protection order issued or consent agreement approved 396
pursuant to section 2919.26 or 3113.31 of the Revised Code; 397

(2) A protection order issued pursuant to section 2903.213 or 398
2903.214 of the Revised Code; 399

(3) A protection order issued by a court of another state. 400

(B)(1) Whoever violates this section is guilty of violating a 401
protection order. 402

(2) Except as otherwise provided in division (B)(3) or (4) of 403
this section, violating a protection order is a misdemeanor of the 404
first degree. 405

(3) If the offender previously has been convicted of or 406
pleaded guilty to a violation of a protection order issued 407
pursuant to section 2903.213 or 2903.214 of the Revised Code, two 408
or more violations of section 2903.21, 2903.211, 2903.22, or 409
2911.211 of the Revised Code that involved the same person who is 410
the subject of the protection order or consent agreement, or one 411
or more violations of this section, violating a protection order 412
is a felony of the fifth degree. 413

(4) If the offender violates a protection order or consent 414
agreement while committing a felony offense, violating a 415
protection order is a felony of the third degree. 416

(5) If the protection order violated by the offender was an 417
order issued pursuant to section 2903.214 of the Revised Code that 418

required electronic monitoring of the offender pursuant to that 419
section, the court may require in addition to any other sentence 420
imposed upon the offender that the offender be electronically 421
monitored for a period not exceeding five years by a law 422
enforcement agency designated by the court. If the court requires 423
under this division that the offender be electronically monitored, 424
unless the court determines that the offender is indigent, the 425
court shall order that the offender pay the costs of the 426
installation of the electronic monitoring device and the cost of 427
monitoring the electronic monitoring device. If the court 428
determines that the offender is indigent, the costs of the 429
installation of the electronic monitoring device and the cost of 430
monitoring the electronic monitoring device shall be paid out of 431
funds from the reparations fund created pursuant to section 432
2743.191 of the Revised Code. 433

(C) It is an affirmative defense to a charge under division 434
(A)(3) of this section that the protection order issued by a court 435
of another state does not comply with the requirements specified 436
in 18 U.S.C. 2265(b) for a protection order that must be accorded 437
full faith and credit by a court of this state or that it is not 438
entitled to full faith and credit under 18 U.S.C. 2265(c). 439

(D) As used in this section, "protection order issued by a 440
court of another state" means an injunction or another order 441
issued by a criminal court of another state for the purpose of 442
preventing violent or threatening acts or harassment against, 443
contact or communication with, or physical proximity to another 444
person, including a temporary order, and means an injunction or 445
order of that nature issued by a civil court of another state, 446
including a temporary order and a final order issued in an 447
independent action or as a pendente lite order in a proceeding for 448
other relief, if the court issued it in response to a complaint, 449
petition, or motion filed by or on behalf of a person seeking 450

protection. "Protection order issued by a court of another state" 451
does not include an order for support or for custody of a child 452
issued pursuant to the divorce and child custody laws of another 453
state, except to the extent that the order for support or for 454
custody of a child is entitled to full faith and credit under the 455
laws of the United States. 456

Section 2. That existing sections 2743.191, 2903.214, and 457
2919.27 of the Revised Code are hereby repealed. 458