

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 112

Representative Domenick

Cosponsors: Representatives Luckie, Murray, Phillips

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A B I L L

To amend sections 2903.213 and 2919.26 of the Revised Code to authorize a court that issues a temporary protection order in specified criminal cases to require the alleged offender, as a condition of pretrial release, to be monitored by a global positioning system device at the alleged offender's expense.

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

Section 1. That sections 2903.213 and 2919.26 of the Revised Code be amended to read as follows:

Sec. 2903.213. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, upon the filing of a complaint that alleges a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, or the commission of a sexually oriented offense, the complainant, the alleged victim, or a family or household member of an alleged victim may file a motion that requests the issuance of a

protection order as a pretrial condition of release of the alleged 20
offender, in addition to any bail set under Criminal Rule 46. The 21
motion shall be filed with the clerk of the court that has 22
jurisdiction of the case at any time after the filing of the 23
complaint. If the complaint involves a person who is a family or 24
household member, the complainant, the alleged victim, or the 25
family or household member may file a motion for a temporary 26
protection order pursuant to section 2919.26 of the Revised Code. 27

(B) A motion for a protection order under this section shall 28
be prepared on a form that is provided by the clerk of the court, 29
and the form shall be substantially as follows: 30

"Motion for Protection Order 31
..... 32
Name and address of court 33

State of Ohio 34

v. No. 35

..... 36

Name of Defendant 37

(Name of person), moves the court to issue a protection order 38
containing terms designed to ensure the safety and protection of 39
the complainant or the alleged victim in the above-captioned case, 40
in relation to the named defendant, pursuant to its authority to 41
issue a protection order under section 2903.213 of the Revised 42
Code. 43

A complaint, a copy of which has been attached to this 44
motion, has been filed in this court charging the named defendant 45
with a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 46
2903.211, 2903.22, or 2911.211 of the Revised Code, a violation of 47
a municipal ordinance substantially similar to section 2903.13, 48
2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, or 49
the commission of a sexually oriented offense. 50

I understand that I must appear before the court, at a time set by the court not later than the next day that the court is in session after the filing of this motion, for a hearing on the motion, and that any protection order granted pursuant to this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached complaint or until the issuance under section 2903.214 of the Revised Code of a protection order arising out of the same activities as those that were the basis of the attached complaint.

.....
Signature of person
.....
Address of person"

(C)(1) As soon as possible after the filing of a motion that requests the issuance of a protection order under this section, but not later than the next day that the court is in session after the filing of the motion, the court shall conduct a hearing to determine whether to issue the order. The person who requested the order shall appear before the court and provide the court with the information that it requests concerning the basis of the motion. If the court finds that the safety and protection of the complainant or the alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a protection order under this section, as a pretrial condition of release, that contains terms designed to ensure the safety and protection of the complainant or the alleged victim, including a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the complainant or the alleged victim and a requirement that the alleged offender be monitored by means of a global positioning system device. If the court requires

that the alleged offender be monitored by a global positioning 82
system device, the alleged offender shall pay the cost of the 83
monitoring. 84

(2)(a) If the court issues a protection order under this 85
section that includes a requirement that the alleged offender 86
refrain from entering the residence, school, business, or place of 87
employment of the complainant or the alleged victim, the order 88
shall clearly state that the order cannot be waived or nullified 89
by an invitation to the alleged offender from the complainant, the 90
alleged victim, or a family or household member to enter the 91
residence, school, business, or place of employment or by the 92
alleged offender's entry into one of those places otherwise upon 93
the consent of the complainant, the alleged victim, or a family or 94
household member. 95

(b) Division (C)(2)(a) of this section does not limit any 96
discretion of a court to determine that an alleged offender 97
charged with a violation of section 2919.27 of the Revised Code, 98
with a violation of a municipal ordinance substantially equivalent 99
to that section, or with contempt of court, which charge is based 100
on an alleged violation of a protection order issued under this 101
section, did not commit the violation or was not in contempt of 102
court. 103

(D)(1) Except when the complaint involves a person who is a 104
family or household member as defined in section 2919.25 of the 105
Revised Code, upon the filing of a complaint that alleges a 106
violation specified in division (A) of this section, the court, 107
upon its own motion, may issue a protection order under this 108
section as a pretrial condition of release of the alleged offender 109
if it finds that the safety and protection of the complainant or 110
the alleged victim may be impaired by the continued presence of 111
the alleged offender. 112

(2) If the court issues a protection order under this section 113

as an ex parte order, it shall conduct, as soon as possible after 114
the issuance of the order but not later than the next day that the 115
court is in session after its issuance, a hearing to determine 116
whether the order should remain in effect, be modified, or be 117
revoked. The hearing shall be conducted under the standards set 118
forth in division (C) of this section. 119

(3) If a municipal court or a county court issues a 120
protection order under this section and if, subsequent to the 121
issuance of the order, the alleged offender who is the subject of 122
the order is bound over to the court of common pleas for 123
prosecution of a felony arising out of the same activities as 124
those that were the basis of the complaint upon which the order is 125
based, notwithstanding the fact that the order was issued by a 126
municipal court or county court, the order shall remain in effect, 127
as though it were an order of the court of common pleas, while the 128
charges against the alleged offender are pending in the court of 129
common pleas, for the period of time described in division (E)(2) 130
of this section, and the court of common pleas has exclusive 131
jurisdiction to modify the order issued by the municipal court or 132
county court. This division applies when the alleged offender is 133
bound over to the court of common pleas as a result of the person 134
waiving a preliminary hearing on the felony charge, as a result of 135
the municipal court or county court having determined at a 136
preliminary hearing that there is probable cause to believe that 137
the felony has been committed and that the alleged offender 138
committed it, as a result of the alleged offender having been 139
indicted for the felony, or in any other manner. 140

(E) A protection order that is issued as a pretrial condition 141
of release under this section: 142

(1) Is in addition to, but shall not be construed as a part 143
of, any bail set under Criminal Rule 46; 144

(2) Is effective only until the disposition, by the court 145

that issued the order or, in the circumstances described in 146
division (D)(3) of this section, by the court of common pleas to 147
which the alleged offender is bound over for prosecution, of the 148
criminal proceeding arising out of the complaint upon which the 149
order is based or until the issuance under section 2903.214 of the 150
Revised Code of a protection order arising out of the same 151
activities as those that were the basis of the complaint filed 152
under this section; 153

(3) Shall not be construed as a finding that the alleged 154
offender committed the alleged offense and shall not be introduced 155
as evidence of the commission of the offense at the trial of the 156
alleged offender on the complaint upon which the order is based. 157

(F) A person who meets the criteria for bail under Criminal 158
Rule 46 and who, if required to do so pursuant to that rule, 159
executes or posts bond or deposits cash or securities as bail, 160
shall not be held in custody pending a hearing before the court on 161
a motion requesting a protection order under this section. 162

(G)(1) A copy of a protection order that is issued under this 163
section shall be issued by the court to the complainant, to the 164
alleged victim, to the person who requested the order, to the 165
defendant, and to all law enforcement agencies that have 166
jurisdiction to enforce the order. The court shall direct that a 167
copy of the order be delivered to the defendant on the same day 168
that the order is entered. If a municipal court or a county court 169
issues a protection order under this section and if, subsequent to 170
the issuance of the order, the defendant who is the subject of the 171
order is bound over to the court of common pleas for prosecution 172
as described in division (D)(3) of this section, the municipal 173
court or county court shall direct that a copy of the order be 174
delivered to the court of common pleas to which the defendant is 175
bound over. 176

(2) Upon the issuance of a protection order under this 177

section, the court shall provide the parties to the order with the 178
following notice orally or by form: 179

"NOTICE 180

If you are convicted of a misdemeanor crime involving 181
violence in which you are or were a spouse, intimate partner, 182
parent, or guardian of the victim or are or were involved in 183
another, similar relationship with the victim, it may be unlawful 184
for you to possess or purchase a firearm, including a rifle, 185
pistol, or revolver, or ammunition pursuant to federal law under 186
18 U.S.C. 922(g)(9). If you have any questions whether this law 187
makes it illegal for you to possess or purchase a firearm or 188
ammunition, you should consult an attorney." 189

(3) All law enforcement agencies shall establish and maintain 190
an index for the protection orders delivered to the agencies 191
pursuant to division (G)(1) of this section. With respect to each 192
order delivered, each agency shall note on the index the date and 193
time of the agency's receipt of the order. 194

(4) Regardless of whether the petitioner has registered the 195
protection order in the county in which the officer's agency has 196
jurisdiction, any officer of a law enforcement agency shall 197
enforce a protection order issued pursuant to this section in 198
accordance with the provisions of the order. 199

(H) Upon a violation of a protection order issued pursuant to 200
this section, the court may issue another protection order under 201
this section, as a pretrial condition of release, that modifies 202
the terms of the order that was violated. 203

(I) Notwithstanding any provision of law to the contrary and 204
regardless of whether a protection order is issued or a consent 205
agreement is approved by a court of another county or by a court 206
of another state, no court or unit of state or local government 207
shall charge any fee, cost, deposit, or money in connection with 208

the filing of a motion pursuant to this section, in connection 209
with the filing, issuance, registration, or service of a 210
protection order or consent agreement, or for obtaining certified 211
copies of a protection order or consent agreement. 212

(J) As used in this section, "sexually oriented offense" has 213
the same meaning as in section 2950.01 of the Revised Code. 214

Sec. 2919.26. (A)(1) Upon the filing of a complaint that 215
alleges a violation of section 2909.06, 2909.07, 2911.12, or 216
2911.211 of the Revised Code if the alleged victim of the 217
violation was a family or household member at the time of the 218
violation, a violation of a municipal ordinance that is 219
substantially similar to any of those sections if the alleged 220
victim of the violation was a family or household member at the 221
time of the violation, any offense of violence if the alleged 222
victim of the offense was a family or household member at the time 223
of the commission of the offense, or any sexually oriented offense 224
if the alleged victim of the offense was a family or household 225
member at the time of the commission of the offense, the 226
complainant, the alleged victim, or a family or household member 227
of an alleged victim may file, or, if in an emergency the alleged 228
victim is unable to file, a person who made an arrest for the 229
alleged violation or offense under section 2935.03 of the Revised 230
Code may file on behalf of the alleged victim, a motion that 231
requests the issuance of a temporary protection order as a 232
pretrial condition of release of the alleged offender, in addition 233
to any bail set under Criminal Rule 46. The motion shall be filed 234
with the clerk of the court that has jurisdiction of the case at 235
any time after the filing of the complaint. 236

(2) For purposes of section 2930.09 of the Revised Code, all 237
stages of a proceeding arising out of a complaint alleging the 238
commission of a violation, offense of violence, or sexually 239

oriented offense described in division (A)(1) of this section, 240
including all proceedings on a motion for a temporary protection 241
order, are critical stages of the case, and a victim may be 242
accompanied by a victim advocate or another person to provide 243
support to the victim as provided in that section. 244

(B) The motion shall be prepared on a form that is provided 245
by the clerk of the court, which form shall be substantially as 246
follows: 247

"MOTION FOR TEMPORARY PROTECTION ORDER 248

..... Court 249

Name and address of court 250

State of Ohio 251

v. No. 252

..... 253

Name of Defendant 254

(name of person), moves the court to issue a temporary protection 255
order containing terms designed to ensure the safety and 256
protection of the complainant, alleged victim, and other family or 257
household members, in relation to the named defendant, pursuant to 258
its authority to issue such an order under section 2919.26 of the 259
Revised Code. 260

A complaint, a copy of which has been attached to this 261
motion, has been filed in this court charging the named defendant 262
with (name of the specified violation, 263
the offense of violence, or sexually oriented offense charged) in 264
circumstances in which the victim was a family or household member 265
in violation of (section of the Revised Code designating the 266
specified violation, offense of violence, or sexually oriented 267
offense charged), or charging the named defendant with a violation 268
of a municipal ordinance that is substantially similar to 269
..... (section of the Revised Code designating 270

the specified violation, offense of violence, or sexually oriented 271
offense charged) involving a family or household member. 272

I understand that I must appear before the court, at a time 273
set by the court within twenty-four hours after the filing of this 274
motion, for a hearing on the motion or that, if I am unable to 275
appear because of hospitalization or a medical condition resulting 276
from the offense alleged in the complaint, a person who can 277
provide information about my need for a temporary protection order 278
must appear before the court in lieu of my appearing in court. I 279
understand that any temporary protection order granted pursuant to 280
this motion is a pretrial condition of release and is effective 281
only until the disposition of the criminal proceeding arising out 282
of the attached complaint, or the issuance of a civil protection 283
order or the approval of a consent agreement, arising out of the 284
same activities as those that were the basis of the complaint, 285
under section 3113.31 of the Revised Code. 286

..... 287

Signature of person 288

(or signature of the arresting officer who filed the motion on 289
behalf of the alleged victim) 290

..... 291

Address of person (or office address of the arresting officer who 292
filed the motion on behalf of the alleged victim)" 293

(C)(1) As soon as possible after the filing of a motion that 294
requests the issuance of a temporary protection order, but not 295
later than twenty-four hours after the filing of the motion, the 296
court shall conduct a hearing to determine whether to issue the 297
order. The person who requested the order shall appear before the 298
court and provide the court with the information that it requests 299
concerning the basis of the motion. If the person who requested 300
the order is unable to appear and if the court finds that the 301

failure to appear is because of the person's hospitalization or 302
medical condition resulting from the offense alleged in the 303
complaint, another person who is able to provide the court with 304
the information it requests may appear in lieu of the person who 305
requested the order. If the court finds that the safety and 306
protection of the complainant, alleged victim, or any other family 307
or household member of the alleged victim may be impaired by the 308
continued presence of the alleged offender, the court may issue a 309
temporary protection order, as a pretrial condition of release, 310
that contains terms designed to ensure the safety and protection 311
of the complainant, alleged victim, or the family or household 312
member, including a requirement that the alleged offender refrain 313
from entering the residence, school, business, or place of 314
employment of the complainant, alleged victim, or the family or 315
household member and a requirement that the alleged offender be 316
monitored by means of a global positioning system device. If the 317
court requires that the alleged offender be monitored by a global 318
positioning system device, the alleged offender shall pay the cost 319
of the monitoring. 320

(2)(a) If the court issues a temporary protection order that 321
includes a requirement that the alleged offender refrain from 322
entering the residence, school, business, or place of employment 323
of the complainant, the alleged victim, or the family or household 324
member, the order shall state clearly that the order cannot be 325
waived or nullified by an invitation to the alleged offender from 326
the complainant, alleged victim, or family or household member to 327
enter the residence, school, business, or place of employment or 328
by the alleged offender's entry into one of those places otherwise 329
upon the consent of the complainant, alleged victim, or family or 330
household member. 331

(b) Division (C)(2)(a) of this section does not limit any 332
discretion of a court to determine that an alleged offender 333

charged with a violation of section 2919.27 of the Revised Code, 334
with a violation of a municipal ordinance substantially equivalent 335
to that section, or with contempt of court, which charge is based 336
on an alleged violation of a temporary protection order issued 337
under this section, did not commit the violation or was not in 338
contempt of court. 339

(D)(1) Upon the filing of a complaint that alleges a 340
violation of section 2909.06, 2909.07, 2911.12, or 2911.211 of the 341
Revised Code if the alleged victim of the violation was a family 342
or household member at the time of the violation, a violation of a 343
municipal ordinance that is substantially similar to any of those 344
sections if the alleged victim of the violation was a family or 345
household member at the time of the violation, any offense of 346
violence if the alleged victim of the offense was a family or 347
household member at the time of the commission of the offense, or 348
any sexually oriented offense if the alleged victim of the offense 349
was a family or household member at the time of the commission of 350
the offense, the court, upon its own motion, may issue a temporary 351
protection order as a pretrial condition of release if it finds 352
that the safety and protection of the complainant, alleged victim, 353
or other family or household member of the alleged offender may be 354
impaired by the continued presence of the alleged offender. 355

(2) If the court issues a temporary protection order under 356
this section as an ex parte order, it shall conduct, as soon as 357
possible after the issuance of the order, a hearing in the 358
presence of the alleged offender not later than the next day on 359
which the court is scheduled to conduct business after the day on 360
which the alleged offender was arrested or at the time of the 361
appearance of the alleged offender pursuant to summons to 362
determine whether the order should remain in effect, be modified, 363
or be revoked. The hearing shall be conducted under the standards 364
set forth in division (C) of this section. 365

(3) An order issued under this section shall contain only those terms authorized in orders issued under division (C) of this section.

(4) If a municipal court or a county court issues a temporary protection order under this section and if, subsequent to the issuance of the order, the alleged offender who is the subject of the order is bound over to the court of common pleas for prosecution of a felony arising out of the same activities as those that were the basis of the complaint upon which the order is based, notwithstanding the fact that the order was issued by a municipal court or county court, the order shall remain in effect, as though it were an order of the court of common pleas, while the charges against the alleged offender are pending in the court of common pleas, for the period of time described in division (E)(2) of this section, and the court of common pleas has exclusive jurisdiction to modify the order issued by the municipal court or county court. This division applies when the alleged offender is bound over to the court of common pleas as a result of the person waiving a preliminary hearing on the felony charge, as a result of the municipal court or county court having determined at a preliminary hearing that there is probable cause to believe that the felony has been committed and that the alleged offender committed it, as a result of the alleged offender having been indicted for the felony, or in any other manner.

(E) A temporary protection order that is issued as a pretrial condition of release under this section:

(1) Is in addition to, but shall not be construed as a part of, any bail set under Criminal Rule 46;

(2) Is effective only until the occurrence of either of the following:

(a) The disposition, by the court that issued the order or,

in the circumstances described in division (D)(4) of this section, 397
by the court of common pleas to which the alleged offender is 398
bound over for prosecution, of the criminal proceeding arising out 399
of the complaint upon which the order is based; 400

(b) The issuance of a protection order or the approval of a 401
consent agreement, arising out of the same activities as those 402
that were the basis of the complaint upon which the order is 403
based, under section 3113.31 of the Revised Code; 404

(3) Shall not be construed as a finding that the alleged 405
offender committed the alleged offense, and shall not be 406
introduced as evidence of the commission of the offense at the 407
trial of the alleged offender on the complaint upon which the 408
order is based. 409

(F) A person who meets the criteria for bail under Criminal 410
Rule 46 and who, if required to do so pursuant to that rule, 411
executes or posts bond or deposits cash or securities as bail, 412
shall not be held in custody pending a hearing before the court on 413
a motion requesting a temporary protection order. 414

(G)(1) A copy of any temporary protection order that is 415
issued under this section shall be issued by the court to the 416
complainant, to the alleged victim, to the person who requested 417
the order, to the defendant, and to all law enforcement agencies 418
that have jurisdiction to enforce the order. The court shall 419
direct that a copy of the order be delivered to the defendant on 420
the same day that the order is entered. If a municipal court or a 421
county court issues a temporary protection order under this 422
section and if, subsequent to the issuance of the order, the 423
defendant who is the subject of the order is bound over to the 424
court of common pleas for prosecution as described in division 425
(D)(4) of this section, the municipal court or county court shall 426
direct that a copy of the order be delivered to the court of 427
common pleas to which the defendant is bound over. 428

(2) Upon the issuance of a protection order under this 429
section, the court shall provide the parties to the order with the 430
following notice orally or by form: 431

"NOTICE 432

If you are convicted of a misdemeanor crime involving 433
violence in which you are or were a spouse, intimate partner, 434
parent, or guardian of the victim or are or were involved in 435
another, similar relationship with the victim, it may be unlawful 436
for you to possess or purchase a firearm, including a rifle, 437
pistol, or revolver, or ammunition pursuant to federal law under 438
18 U.S.C. 922(g)(9). If you have any questions whether this law 439
makes it illegal for you to possess or purchase a firearm or 440
ammunition, you should consult an attorney." 441

(3) All law enforcement agencies shall establish and maintain 442
an index for the temporary protection orders delivered to the 443
agencies pursuant to division (G)(1) of this section. With respect 444
to each order delivered, each agency shall note on the index, the 445
date and time of the receipt of the order by the agency. 446

(4) A complainant, alleged victim, or other person who 447
obtains a temporary protection order under this section may 448
provide notice of the issuance of the temporary protection order 449
to the judicial and law enforcement officials in any county other 450
than the county in which the order is issued by registering that 451
order in the other county in accordance with division (N) of 452
section 3113.31 of the Revised Code and filing a copy of the 453
registered protection order with a law enforcement agency in the 454
other county in accordance with that division. 455
456

(5) Any officer of a law enforcement agency shall enforce a 457
temporary protection order issued by any court in this state in 458
accordance with the provisions of the order, including removing 459
the defendant from the premises, regardless of whether the order 460

is registered in the county in which the officer's agency has 461
jurisdiction as authorized by division (G)(4) of this section. 462

(H) Upon a violation of a temporary protection order, the 463
court may issue another temporary protection order, as a pretrial 464
condition of release, that modifies the terms of the order that 465
was violated. 466

(I)(1) As used in divisions (I)(1) and (2) of this section, 467
"defendant" means a person who is alleged in a complaint to have 468
committed a violation, offense of violence, or sexually oriented 469
offense of the type described in division (A) of this section. 470

(2) If a complaint is filed that alleges that a person 471
committed a violation, offense of violence, or sexually oriented 472
offense of the type described in division (A) of this section, the 473
court may not issue a temporary protection order under this 474
section that requires the complainant, the alleged victim, or 475
another family or household member of the defendant to do or 476
refrain from doing an act that the court may require the defendant 477
to do or refrain from doing under a temporary protection order 478
unless both of the following apply: 479

(a) The defendant has filed a separate complaint that alleges 480
that the complainant, alleged victim, or other family or household 481
member in question who would be required under the order to do or 482
refrain from doing the act committed a violation or offense of 483
violence of the type described in division (A) of this section. 484

(b) The court determines that both the complainant, alleged 485
victim, or other family or household member in question who would 486
be required under the order to do or refrain from doing the act 487
and the defendant acted primarily as aggressors, that neither the 488
complainant, alleged victim, or other family or household member 489
in question who would be required under the order to do or refrain 490
from doing the act nor the defendant acted primarily in 491

self-defense, and, in accordance with the standards and criteria 492
of this section as applied in relation to the separate complaint 493
filed by the defendant, that it should issue the order to require 494
the complainant, alleged victim, or other family or household 495
member in question to do or refrain from doing the act. 496

(J) Notwithstanding any provision of law to the contrary and 497
regardless of whether a protection order is issued or a consent 498
agreement is approved by a court of another county or a court of 499
another state, no court or unit of state or local government shall 500
charge any fee, cost, deposit, or money in connection with the 501
filing of a motion pursuant to this section, in connection with 502
the filing, issuance, registration, or service of a protection 503
order or consent agreement, or for obtaining a certified copy of a 504
protection order or consent agreement. 505

(K) As used in this section: 506

(1) "Sexually oriented offense" has the same meaning as in 507
section 2950.01 of the Revised Code. 508

(2) "Victim advocate" means a person who provides support and 509
assistance for a victim of an offense during court proceedings. 510

Section 2. That existing sections 2903.213 and 2919.26 of the 511
Revised Code are hereby repealed. 512