

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 160

Representative Hagan, R.

Cosponsors: Representatives Antonio, Foley, Fedor, Driehaus

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A B I L L

To amend sections 2919.26 and 3113.31 and to enact	1
sections 2919.261 and 3113.311 of the Revised Code	2
to require a person who is subject to a civil or	3
criminal domestic violence temporary protection	4
order to surrender all firearms in the person's	5
immediate possession or control to a law	6
enforcement agency or to a federally licensed	7
firearms dealer.	8

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

Section 1. That sections 2919.26 and 3113.31 be amended and	9
sections 2919.261 and 3113.311 of the Revised Code be enacted to	10
read as follows:	11

Sec. 2919.26. (A)(1) Upon the filing of a complaint that	12
alleges a violation of section 2909.06, 2909.07, 2911.12, or	13
2911.211 of the Revised Code if the alleged victim of the	14
violation was a family or household member at the time of the	15
violation, a violation of a municipal ordinance that is	16
substantially similar to any of those sections if the alleged	17
victim of the violation was a family or household member at the	18
time of the violation, any offense of violence if the alleged	19

victim of the offense was a family or household member at the time 20
of the commission of the offense, or any sexually oriented offense 21
if the alleged victim of the offense was a family or household 22
member at the time of the commission of the offense, the 23
complainant, the alleged victim, or a family or household member 24
of an alleged victim may file, or, if in an emergency the alleged 25
victim is unable to file, a person who made an arrest for the 26
alleged violation or offense under section 2935.03 of the Revised 27
Code may file on behalf of the alleged victim, a motion that 28
requests the issuance of a temporary protection order as a 29
pretrial condition of release of the alleged offender, in addition 30
to any bail set under Criminal Rule 46. The motion shall be filed 31
with the clerk of the court that has jurisdiction of the case at 32
any time after the filing of the complaint. 33

(2) For purposes of section 2930.09 of the Revised Code, all 34
stages of a proceeding arising out of a complaint alleging the 35
commission of a violation, offense of violence, or sexually 36
oriented offense described in division (A)(1) of this section, 37
including all proceedings on a motion for a temporary protection 38
order, are critical stages of the case, and a victim may be 39
accompanied by a victim advocate or another person to provide 40
support to the victim as provided in that section. 41

(B) The motion shall be prepared on a form that is provided 42
by the clerk of the court, which form shall be substantially as 43
follows: 44

"MOTION FOR TEMPORARY PROTECTION ORDER 45

..... Court 46

Name and address of court 47

State of Ohio 48

v. No. 49

..... 50

Name of Defendant 51

(name of person), moves the court to issue a temporary protection 52
order containing terms designed to ensure the safety and 53
protection of the complainant, alleged victim, and other family or 54
household members, in relation to the named defendant, pursuant to 55
its authority to issue such an order under section 2919.26 of the 56
Revised Code. 57

A complaint, a copy of which has been attached to this 58
motion, has been filed in this court charging the named defendant 59
with (name of the specified violation, 60
the offense of violence, or sexually oriented offense charged) in 61
circumstances in which the victim was a family or household member 62
in violation of (section of the Revised Code designating the 63
specified violation, offense of violence, or sexually oriented 64
offense charged), or charging the named defendant with a violation 65
of a municipal ordinance that is substantially similar to 66
..... (section of the Revised Code designating 67
the specified violation, offense of violence, or sexually oriented 68
offense charged) involving a family or household member. 69

To the best of my knowledge, the number, types, and locations 70
of any firearms possessed or controlled by the defendant are 71
..... (listing of applicable firearms). 72

I understand that I must appear before the court, at a time 73
set by the court within twenty-four hours after the filing of this 74
motion, for a hearing on the motion or that, if I am unable to 75
appear because of hospitalization or a medical condition resulting 76
from the offense alleged in the complaint, a person who can 77
provide information about my need for a temporary protection order 78
must appear before the court in lieu of my appearing in court. I 79
understand that any temporary protection order granted pursuant to 80
this motion is a pretrial condition of release and is effective 81
only until the disposition of the criminal proceeding arising out 82

of the attached complaint, or the issuance of a civil protection 83
order or the approval of a consent agreement, arising out of the 84
same activities as those that were the basis of the complaint, 85
under section 3113.31 of the Revised Code. 86
..... 87
Signature of person 88
(or signature of the arresting officer who filed the motion on 89
behalf of the alleged victim) 90
..... 91
Address of person (or office address of the arresting officer who 92
filed the motion on behalf of the alleged victim)" 93

 (C)(1) As soon as possible after the filing of a motion that 94
requests the issuance of a temporary protection order, but not 95
later than twenty-four hours after the filing of the motion, the 96
court shall conduct a hearing to determine whether to issue the 97
order. The person who requested the order shall appear before the 98
court and provide the court with the information that it requests 99
concerning the basis of the motion. If the person who requested 100
the order is unable to appear and if the court finds that the 101
failure to appear is because of the person's hospitalization or 102
medical condition resulting from the offense alleged in the 103
complaint, another person who is able to provide the court with 104
the information it requests may appear in lieu of the person who 105
requested the order. If the court finds that the safety and 106
protection of the complainant, alleged victim, or any other family 107
or household member of the alleged victim may be impaired by the 108
continued presence of the alleged offender, the court may issue a 109
temporary protection order, as a pretrial condition of release, 110
that contains terms designed to ensure the safety and protection 111
of the complainant, alleged victim, or the family or household 112
member, including a requirement that the alleged offender refrain 113

from entering the residence, school, business, or place of 114
employment of the complainant, alleged victim, or the family or 115
household member. 116

(2)(a) If the court issues a temporary protection order that 117
includes a requirement that the alleged offender refrain from 118
entering the residence, school, business, or place of employment 119
of the complainant, the alleged victim, or the family or household 120
member, the order shall state clearly that the order cannot be 121
waived or nullified by an invitation to the alleged offender from 122
the complainant, alleged victim, or family or household member to 123
enter the residence, school, business, or place of employment or 124
by the alleged offender's entry into one of those places otherwise 125
upon the consent of the complainant, alleged victim, or family or 126
household member. 127

(b) Division (C)(2)(a) of this section does not limit any 128
discretion of a court to determine that an alleged offender 129
charged with a violation of section 2919.27 of the Revised Code, 130
with a violation of a municipal ordinance substantially equivalent 131
to that section, or with contempt of court, which charge is based 132
on an alleged violation of a temporary protection order issued 133
under this section, did not commit the violation or was not in 134
contempt of court. 135

(D)(1) Upon the filing of a complaint that alleges a 136
violation of section 2909.06, 2909.07, 2911.12, or 2911.211 of the 137
Revised Code if the alleged victim of the violation was a family 138
or household member at the time of the violation, a violation of a 139
municipal ordinance that is substantially similar to any of those 140
sections if the alleged victim of the violation was a family or 141
household member at the time of the violation, any offense of 142
violence if the alleged victim of the offense was a family or 143
household member at the time of the commission of the offense, or 144
any sexually oriented offense if the alleged victim of the offense 145

was a family or household member at the time of the commission of 146
the offense, the court, upon its own motion, may issue a temporary 147
protection order as a pretrial condition of release if it finds 148
that the safety and protection of the complainant, alleged victim, 149
or other family or household member of the alleged offender may be 150
impaired by the continued presence of the alleged offender. 151

(2) If the court issues a temporary protection order under 152
this section as an ex parte order, it shall conduct, as soon as 153
possible after the issuance of the order, a hearing in the 154
presence of the alleged offender not later than the next day on 155
which the court is scheduled to conduct business after the day on 156
which the alleged offender was arrested or at the time of the 157
appearance of the alleged offender pursuant to summons to 158
determine whether the order should remain in effect, be modified, 159
or be revoked. The hearing shall be conducted under the standards 160
set forth in division (C) of this section. 161

(3) An order issued under this section shall contain only 162
those terms authorized in orders issued under division (C) of this 163
section and those terms specified in section 2919.261 of the 164
Revised Code. 165

(4) If a municipal court or a county court issues a temporary 166
protection order under this section and if, subsequent to the 167
issuance of the order, the alleged offender who is the subject of 168
the order is bound over to the court of common pleas for 169
prosecution of a felony arising out of the same activities as 170
those that were the basis of the complaint upon which the order is 171
based, notwithstanding the fact that the order was issued by a 172
municipal court or county court, the order shall remain in effect, 173
as though it were an order of the court of common pleas, while the 174
charges against the alleged offender are pending in the court of 175
common pleas, for the period of time described in division (E)(2) 176
of this section, and the court of common pleas has exclusive 177

jurisdiction to modify the order issued by the municipal court or 178
county court. This division applies when the alleged offender is 179
bound over to the court of common pleas as a result of the person 180
waiving a preliminary hearing on the felony charge, as a result of 181
the municipal court or county court having determined at a 182
preliminary hearing that there is probable cause to believe that 183
the felony has been committed and that the alleged offender 184
committed it, as a result of the alleged offender having been 185
indicted for the felony, or in any other manner. 186

(E) A temporary protection order that is issued as a pretrial 187
condition of release under this section: 188

(1) Is in addition to, but shall not be construed as a part 189
of, any bail set under Criminal Rule 46; 190

(2) Is effective only until the occurrence of either of the 191
following: 192

(a) The disposition, by the court that issued the order or, 193
in the circumstances described in division (D)(4) of this section, 194
by the court of common pleas to which the alleged offender is 195
bound over for prosecution, of the criminal proceeding arising out 196
of the complaint upon which the order is based; 197

(b) The issuance of a protection order or the approval of a 198
consent agreement, arising out of the same activities as those 199
that were the basis of the complaint upon which the order is 200
based, under section 3113.31 of the Revised Code; 201

(3) Shall not be construed as a finding that the alleged 202
offender committed the alleged offense, and shall not be 203
introduced as evidence of the commission of the offense at the 204
trial of the alleged offender on the complaint upon which the 205
order is based. 206

(F) A person who meets the criteria for bail under Criminal 207
Rule 46 and who, if required to do so pursuant to that rule, 208

executes or posts bond or deposits cash or securities as bail, 209
shall not be held in custody pending a hearing before the court on 210
a motion requesting a temporary protection order. 211

(G)(1) A copy of any temporary protection order that is 212
issued under this section shall be issued by the court to the 213
complainant, to the alleged victim, to the person who requested 214
the order, to the defendant, and to all law enforcement agencies 215
that have jurisdiction to enforce the order. The court shall 216
direct that a copy of the order be delivered to the defendant on 217
the same day that the order is entered. If a municipal court or a 218
county court issues a temporary protection order under this 219
section and if, subsequent to the issuance of the order, the 220
defendant who is the subject of the order is bound over to the 221
court of common pleas for prosecution as described in division 222
(D)(4) of this section, the municipal court or county court shall 223
direct that a copy of the order be delivered to the court of 224
common pleas to which the defendant is bound over. 225

(2) ~~Upon~~ In addition to the notice required by division (B) 226
of section 2919.261 of the Revised Code, upon the issuance of a 227
protection order under this section, the court shall provide the 228
parties to the order with the following notice orally or by form: 229

"NOTICE 230

As a result of this protection order, it may be unlawful for 231
you to possess or purchase a firearm, including a rifle, pistol, 232
or revolver, or ammunition pursuant to federal law under 18 U.S.C. 233
922(g)(8). If you have any questions whether this law makes it 234
illegal for you to possess or purchase a firearm or ammunition, 235
you should consult an attorney." 236

(3) All law enforcement agencies shall establish and maintain 237
an index for the temporary protection orders delivered to the 238
agencies pursuant to division (G)(1) of this section. With respect 239
to each order delivered, each agency shall note on the index, the 240

date and time of the receipt of the order by the agency. 241

(4) A complainant, alleged victim, or other person who 242
obtains a temporary protection order under this section may 243
provide notice of the issuance of the temporary protection order 244
to the judicial and law enforcement officials in any county other 245
than the county in which the order is issued by registering that 246
order in the other county in accordance with division (N) of 247
section 3113.31 of the Revised Code and filing a copy of the 248
registered protection order with a law enforcement agency in the 249
other county in accordance with that division. 250

(5) Any officer of a law enforcement agency shall enforce a 251
temporary protection order issued by any court in this state in 252
accordance with the provisions of the order, including removing 253
the defendant from the premises, regardless of whether the order 254
is registered in the county in which the officer's agency has 255
jurisdiction as authorized by division (G)(4) of this section. 256

(H) Upon a violation of a temporary protection order, the 257
court may issue another temporary protection order, as a pretrial 258
condition of release, that modifies the terms of the order that 259
was violated. 260

(I)(1) As used in divisions (I)(1) and (2) of this section, 261
"defendant" means a person who is alleged in a complaint to have 262
committed a violation, offense of violence, or sexually oriented 263
offense of the type described in division (A) of this section. 264

(2) If a complaint is filed that alleges that a person 265
committed a violation, offense of violence, or sexually oriented 266
offense of the type described in division (A) of this section, the 267
court may not issue a temporary protection order under this 268
section that requires the complainant, the alleged victim, or 269
another family or household member of the defendant to do or 270
refrain from doing an act that the court may require the defendant 271

to do or refrain from doing under a temporary protection order 272
unless both of the following apply: 273

(a) The defendant has filed a separate complaint that alleges 274
that the complainant, alleged victim, or other family or household 275
member in question who would be required under the order to do or 276
refrain from doing the act committed a violation or offense of 277
violence of the type described in division (A) of this section. 278

(b) The court determines that both the complainant, alleged 279
victim, or other family or household member in question who would 280
be required under the order to do or refrain from doing the act 281
and the defendant acted primarily as aggressors, that neither the 282
complainant, alleged victim, or other family or household member 283
in question who would be required under the order to do or refrain 284
from doing the act nor the defendant acted primarily in 285
self-defense, and, in accordance with the standards and criteria 286
of this section as applied in relation to the separate complaint 287
filed by the defendant, that it should issue the order to require 288
the complainant, alleged victim, or other family or household 289
member in question to do or refrain from doing the act. 290

(J) Notwithstanding any provision of law to the contrary and 291
regardless of whether a protection order is issued or a consent 292
agreement is approved by a court of another county or a court of 293
another state, no court or unit of state or local government shall 294
charge any fee, cost, deposit, or money in connection with the 295
filing of a motion pursuant to this section, in connection with 296
the filing, issuance, registration, or service of a protection 297
order or consent agreement, or for obtaining a certified copy of a 298
protection order or consent agreement. 299

(K) As used in this section: 300

(1) "Sexually oriented offense" has the same meaning as in 301
section 2950.01 of the Revised Code. 302

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

Sec. 2919.261. (A) An alleged victim or arresting officer who moves for a temporary protection order pursuant to section 2919.26 of the Revised Code shall describe in the motion the number, types, and locations of any firearms presently known by the movant to be possessed or controlled by the defendant.

(B) A temporary order issued pursuant to section 2919.26 of the Revised Code shall prohibit the defendant from owning, possessing, purchasing, or receiving a firearm or ammunition while that order is in effect. The order shall include or be accompanied by a written notice that states the defendant's obligations under this section, including the specific date by which any firearms must be surrendered.

(C) A defendant who is served with an order and notice described in division (B) of this section shall promptly surrender any firearms in or subject to the defendant's immediate possession or control. If the order and notice are served by a law enforcement officer and the officer requests the surrender to the officer of any firearms, the defendant shall immediately surrender the firearms in a safe manner to the officer. If the order and notice are not served by a law enforcement officer or the officer does not request surrender to the officer of any firearms, the defendant shall surrender any firearms within twenty-four hours after service of the order and notice by surrendering the firearms in a safe manner to a law enforcement officer or by selling the firearms to a federally licensed firearms dealer. An officer or dealer who takes possession of a firearm pursuant to this section shall give a receipt for the firearm to the defendant at the time of surrender or sale.

(D) Within forty-eight hours after being served with the

order and notice described in division (B) of this section, the 334
defendant shall do both of the following: 335

(1) File with the court that issued the order the receipt 336
showing that the firearm was surrendered to a law enforcement 337
officer or sold to a federally licensed firearms dealer; 338

(2) File a copy of the receipt with the law enforcement 339
agency that employs the officer who served the order and notice 340
or, if someone other than a law enforcement officer served the 341
order and notice, with the municipal law enforcement agency having 342
jurisdiction over the place where the order and notice were served 343
or, if that place is in an unincorporated area, with the sheriff 344
having jurisdiction over that place. 345

(E) A law enforcement agency may charge the defendant a fee 346
for the storage of any firearm surrendered pursuant to this 347
section. This fee shall not exceed the costs incurred by the 348
agency that are directly related to taking possession of and 349
storing the firearm and either returning the firearm to the 350
defendant or selling it to a federally licensed firearms dealer. 351

(F)(1) Within five days after the expiration of an order 352
described in division (B) of this section, a law enforcement 353
agency having custody of a firearm surrendered pursuant to the 354
order shall return the firearm to the defendant, unless another 355
protection order has been issued that prohibits the defendant from 356
possessing a firearm or the agency determines that the firearm has 357
been stolen or that the defendant is prohibited from possessing a 358
firearm under state or federal law. 359

(2)(a) If a law enforcement agency determines that the 360
defendant is the legal owner of any firearm deposited with the 361
agency and is prohibited from possessing any firearm, the 362
defendant may make one sale of all of the defendant's firearms 363
that are in the custody of the agency to a federally licensed 364

firearms dealer while the order remains in effect. Within five 365
days after a dealer presents the agency with a bill of sale 366
indicating that the defendant has sold to the dealer all of the 367
defendant's firearms that are in the agency's custody, the agency 368
shall give possession of those firearms to the dealer. 369

(b) If a law enforcement agency determines that the defendant 370
is not the legal owner of any firearm deposited with the agency, 371
the agency shall make a reasonable attempt to identify and return 372
the firearm to the legal owner. If the agency cannot identify the 373
legal owner or if the owner is prohibited from possessing a 374
firearm, the agency shall treat the firearm as unclaimed property 375
and dispose of it accordingly. 376

(G)(1) In a temporary order issued pursuant to section 377
2919.26 of the Revised Code, a court may grant an exemption from 378
the requirement that the defendant surrender any firearms if the 379
defendant can show that a particular firearm is necessary as a 380
condition of the defendant's continued employment and that the 381
current employer is unable to reassign the defendant to another 382
position where a firearm is unnecessary. If the court grants an 383
exemption, the order shall provide that the defendant shall have 384
physical possession of the firearm only during scheduled work 385
hours and during travel to and from the defendant's place of 386
employment. 387

(2) If the defendant is a peace officer who must carry a 388
firearm as a condition of employment and whose personal safety 389
depends on the ability to carry a firearm, a court may allow the 390
defendant to carry a firearm while on or off duty if, after a 391
psychological evaluation of the defendant, the court finds by a 392
preponderance of the evidence that the officer does not pose a 393
threat of harm. The court may require the peace officer to enter 394
into counseling or other remedial treatment program to deal with 395
any propensity for domestic violence. 396

(3) If the defendant notifies the court that the defendant 397
owns a firearm that is not in the defendant's immediate 398
possession, the court may limit the order to exclude that firearm 399
if the court is satisfied the defendant is unable to gain access 400
to that firearm while the protective order is in effect. 401

(H) If the defendant refuses to relinquish possession of any 402
firearm on the grounds that such relinquishment would constitute 403
self-incrimination in violation of the United States Constitution 404
or Ohio Constitution, the court may grant use immunity for the act 405
of relinquishing the firearm. 406

Sec. 3113.31. (A) As used in this section: 407

(1) "Domestic violence" means the occurrence of one or more 408
of the following acts against a family or household member: 409

(a) Attempting to cause or recklessly causing bodily injury; 410

(b) Placing another person by the threat of force in fear of 411
imminent serious physical harm or committing a violation of 412
section 2903.211 or 2911.211 of the Revised Code; 413

(c) Committing any act with respect to a child that would 414
result in the child being an abused child, as defined in section 415
2151.031 of the Revised Code; 416

(d) Committing a sexually oriented offense. 417

(2) "Court" means the domestic relations division of the 418
court of common pleas in counties that have a domestic relations 419
division and the court of common pleas in counties that do not 420
have a domestic relations division, or the juvenile division of 421
the court of common pleas of the county in which the person to be 422
protected by a protection order issued or a consent agreement 423
approved under this section resides if the respondent is less than 424
eighteen years of age. 425

(3) "Family or household member" means any of the following: 426

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

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

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

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

(b) The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent.

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

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

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

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

(C) A person may seek relief under this section on the person's own behalf, or any parent or adult household member may seek relief under this section on behalf of any other family or

household member, by filing a petition with the court. The 457
petition shall contain or state: 458

(1) An allegation that the respondent engaged in domestic 459
violence against a family or household member of the respondent, 460
including a description of the nature and extent of the domestic 461
violence; 462

(2) The relationship of the respondent to the petitioner, and 463
to the victim if other than the petitioner; 464

(3) If the petitioner requests an ex parte order, a statement 465
of the number, types, and locations of any firearms known by the 466
petitioner to be possessed or controlled by the respondent; 467

(4) A request for relief under this section. 468

(D)(1) If a person who files a petition pursuant to this 469
section requests an ex parte order, the court shall hold an ex 470
parte hearing on the same day that the petition is filed. The 471
court, for good cause shown at the ex parte hearing, may enter any 472
temporary orders, with or without bond, including, but not limited 473
to, an order described in division (E)(1)(a), (b), or (c) of this 474
section, that the court finds necessary to protect the family or 475
household member from domestic violence. If the court issues any 476
such order, the order also shall include the terms specified in 477
section 3113.311 of the Revised Code. Immediate and present danger 478
of domestic violence to the family or household member constitutes 479
good cause for purposes of this section. Immediate and present 480
danger includes, but is not limited to, situations in which the 481
respondent has threatened the family or household member with 482
bodily harm, in which the respondent has threatened the family or 483
household member with a sexually oriented offense, or in which the 484
respondent previously has been convicted of, pleaded guilty to, or 485
been adjudicated a delinquent child for an offense that 486
constitutes domestic violence against the family or household 487

member. 488

(2)(a) If the court, after an ex parte hearing, issues an 489
order described in division (E)(1)(b) or (c) of this section, the 490
court shall schedule a full hearing for a date that is within 491
seven court days after the ex parte hearing. If any other type of 492
protection order that is authorized under division (E) of this 493
section is issued by the court after an ex parte hearing, the 494
court shall schedule a full hearing for a date that is within ten 495
court days after the ex parte hearing. The court shall give the 496
respondent notice of, and an opportunity to be heard at, the full 497
hearing. The court shall hold the full hearing on the date 498
scheduled under this division unless the court grants a 499
continuance of the hearing in accordance with this division. Under 500
any of the following circumstances or for any of the following 501
reasons, the court may grant a continuance of the full hearing to 502
a reasonable time determined by the court: 503

(i) Prior to the date scheduled for the full hearing under 504
this division, the respondent has not been served with the 505
petition filed pursuant to this section and notice of the full 506
hearing. 507

(ii) The parties consent to the continuance. 508

(iii) The continuance is needed to allow a party to obtain 509
counsel. 510

(iv) The continuance is needed for other good cause. 511

(b) An ex parte order issued under this section does not 512
expire because of a failure to serve notice of the full hearing 513
upon the respondent before the date set for the full hearing under 514
division (D)(2)(a) of this section or because the court grants a 515
continuance under that division. 516

(3) If a person who files a petition pursuant to this section 517
does not request an ex parte order, or if a person requests an ex 518

parte order but the court does not issue an ex parte order after 519
an ex parte hearing, the court shall proceed as in a normal civil 520
action and grant a full hearing on the matter. 521

(E)(1) After an ex parte or full hearing, the court may grant 522
any protection order, with or without bond, or approve any consent 523
agreement to bring about a cessation of domestic violence against 524
the family or household members. The order or agreement may: 525

(a) Direct the respondent to refrain from abusing or from 526
committing sexually oriented offenses against the family or 527
household members; 528

(b) Grant possession of the residence or household to the 529
petitioner or other family or household member, to the exclusion 530
of the respondent, by evicting the respondent, when the residence 531
or household is owned or leased solely by the petitioner or other 532
family or household member, or by ordering the respondent to 533
vacate the premises, when the residence or household is jointly 534
owned or leased by the respondent, and the petitioner or other 535
family or household member; 536

(c) When the respondent has a duty to support the petitioner 537
or other family or household member living in the residence or 538
household and the respondent is the sole owner or lessee of the 539
residence or household, grant possession of the residence or 540
household to the petitioner or other family or household member, 541
to the exclusion of the respondent, by ordering the respondent to 542
vacate the premises, or, in the case of a consent agreement, allow 543
the respondent to provide suitable, alternative housing; 544

(d) Temporarily allocate parental rights and responsibilities 545
for the care of, or establish temporary parenting time rights with 546
regard to, minor children, if no other court has determined, or is 547
determining, the allocation of parental rights and 548
responsibilities for the minor children or parenting time rights; 549

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

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

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

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

(2) If a protection order has been issued pursuant to this section in a prior action involving the respondent and the petitioner or one or more of the family or household members or victims, the court may include in a protection order that it 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 582
approved under this section shall be valid until a date certain, 583
but not later than five years from the date of its issuance or 584
approval, or not later than the date a respondent who is less than 585
eighteen years of age attains nineteen years of age, unless 586
modified or terminated as provided in division (E)(8) of this 587
section. 588

(b) Subject to the limitation on the duration of an order or 589
agreement set forth in division (E)(3)(a) of this section, any 590
order under division (E)(1)(d) of this section shall terminate on 591
the date that a court in an action for divorce, dissolution of 592
marriage, or legal separation brought by the petitioner or 593
respondent issues an order allocating parental rights and 594
responsibilities for the care of children or on the date that a 595
juvenile court in an action brought by the petitioner or 596
respondent issues an order awarding legal custody of minor 597
children. Subject to the limitation on the duration of an order or 598
agreement set forth in division (E)(3)(a) of this section, any 599
order under division (E)(1)(e) of this section shall terminate on 600
the date that a court in an action for divorce, dissolution of 601
marriage, or legal separation brought by the petitioner or 602
respondent issues a support order or on the date that a juvenile 603
court in an action brought by the petitioner or respondent issues 604
a support order. 605

(c) Any protection order issued or consent agreement approved 606
pursuant to this section may be renewed in the same manner as the 607
original order or agreement was issued or approved. 608

(4) A court may not issue a protection order that requires a 609
petitioner to do or to refrain from doing an act that the court 610
may require a respondent to do or to refrain from doing under 611
division (E)(1)(a), (b), (c), (d), (e), (g), or (h) of this 612
section unless all of the following apply: 613

(a) The respondent files a separate petition for a protection order in accordance with this section. 614 615

(b) The petitioner is served notice of the respondent's petition at least forty-eight hours before the court holds a hearing with respect to the respondent's petition, or the petitioner waives the right to receive this notice. 616 617 618 619

(c) If the petitioner has requested an ex parte order pursuant to division (D) of this section, the court does not delay any hearing required by that division beyond the time specified in that division in order to consolidate the hearing with a hearing on the petition filed by the respondent. 620 621 622 623 624

(d) After a full hearing at which the respondent presents evidence in support of the request for a protection order and the petitioner is afforded an opportunity to defend against that evidence, the court determines that the petitioner has committed an act of domestic violence or has violated a temporary protection order issued pursuant to section 2919.26 of the Revised Code, that both the petitioner and the respondent acted primarily as aggressors, and that neither the petitioner nor the respondent acted primarily in self-defense. 625 626 627 628 629 630 631 632 633

(5) No protection order issued or consent agreement approved under this section shall in any manner affect title to any real property. 634 635 636

(6)(a) If a petitioner, or the child of a petitioner, who obtains a protection order or consent agreement pursuant to division (E)(1) of this section or a temporary protection order pursuant to section 2919.26 of the Revised Code and is the subject of a parenting time order issued pursuant to section 3109.051 or 3109.12 of the Revised Code or a visitation or companionship order issued pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code or division (E)(1)(d) of this section granting 637 638 639 640 641 642 643 644

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

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

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

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

(7)(a) If a protection order issued or consent agreement
approved under this section includes 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, the
order or agreement shall state clearly that the order or agreement
cannot be waived or nullified by an invitation to the respondent
from the petitioner or other family or household member to enter
the residence, school, business, or place of employment or by the
respondent's entry into one of those places otherwise upon the
consent of the petitioner or other family or household member.

(b) Division (E)(7)(a) of this section does not limit any
discretion of a court to determine that a respondent charged with
a violation of section 2919.27 of the Revised Code, with a
violation of a municipal ordinance substantially equivalent to
that section, or with contempt of court, which charge is based on
an alleged violation of a protection order issued or consent

agreement approved under this section, did not commit the 676
violation or was not in contempt of court. 677

(8)(a) The court may modify or terminate as provided in 678
division (E)(8) of this section a protection order or consent 679
agreement that was issued after a full hearing under this section. 680
The court that issued the protection order or approved the consent 681
agreement shall hear a motion for modification or termination of 682
the protection order or consent agreement pursuant to division 683
(E)(8) of this section. 684

(b) Either the petitioner or the respondent of the original 685
protection order or consent agreement may bring a motion for 686
modification or termination of a protection order or consent 687
agreement that was issued or approved after a full hearing. The 688
court shall require notice of the motion to be made as provided by 689
the Rules of Civil Procedure. If the petitioner for the original 690
protection order or consent agreement has requested that the 691
petitioner's address be kept confidential, the court shall not 692
disclose the address to the respondent of the original protection 693
order or consent agreement or any other person, except as 694
otherwise required by law. The moving party has the burden of 695
proof to show, by a preponderance of the evidence, that 696
modification or termination of the protection order or consent 697
agreement is appropriate because either the protection order or 698
consent agreement is no longer needed or because the terms of the 699
original protection order or consent agreement are no longer 700
appropriate. 701

(c) In considering whether to modify or terminate a 702
protection order or consent agreement issued or approved under 703
this section, the court shall consider all relevant factors, 704
including, but not limited to, the following: 705

(i) Whether the petitioner consents to modification or 706
termination of the protection order or consent agreement; 707

(ii) Whether the petitioner fears the respondent;	708
(iii) The current nature of the relationship between the petitioner and the respondent;	709 710
(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;	711 712 713 714
(v) Whether the respondent has complied with the terms and conditions of the original protection order or consent agreement;	715 716
(vi) Whether the respondent has a continuing involvement with illegal drugs or alcohol;	717 718
(vii) Whether the respondent has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for an offense of violence since the issuance of the protection order or approval of the consent agreement;	719 720 721 722
(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;	723 724 725 726 727
(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;	728 729 730 731
(x) The time that has elapsed since the protection order was issued or since the consent agreement was approved;	732 733
(xi) The age and health of the respondent;	734
(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	735 736 737

petitioner or other protected parties. 738

(d) If a protection order or consent agreement is modified or 739
terminated as provided in division (E)(8) of this section, the 740
court shall issue copies of the modified or terminated order or 741
agreement as provided in division (F) of this section. A 742
petitioner may also provide notice of the modification or 743
termination to the judicial and law enforcement officials in any 744
county other than the county in which the order or agreement is 745
modified or terminated as provided in division (N) of this 746
section. 747

(e) If the respondent moves for modification or termination 748
of a protection order or consent agreement pursuant to this 749
section, the court may assess costs against the respondent for the 750
filing of the motion. 751

(9) Any protection order issued or any consent agreement 752
approved pursuant to this section shall include a provision that 753
the court will automatically seal all of the records of the 754
proceeding in which the order is issued or agreement approved on 755
the date the respondent attains the age of nineteen years unless 756
the petitioner provides the court with evidence that the 757
respondent has not complied with all of the terms of the 758
protection order or consent agreement. The protection order or 759
consent agreement shall specify the date when the respondent 760
attains the age of nineteen years. 761

(F)(1) A copy of any protection order, or consent agreement, 762
that is issued, approved, modified, or terminated under this 763
section shall be issued by the court to the petitioner, to the 764
respondent, and to all law enforcement agencies that have 765
jurisdiction to enforce the order or agreement. The court shall 766
direct that a copy of an order be delivered to the respondent on 767
the same day that the order is entered. 768

(2) ~~Upon~~ In addition to the notice required by division (B) 769
of section 3113.311 of the Revised Code, upon the issuance of a 770
protection order or the approval of a consent agreement under this 771
section, the court shall provide the parties to the order or 772
agreement with the following notice orally or by form: 773

"NOTICE 774

As a result of this order or consent agreement, it may be 775
unlawful for you to possess or purchase a firearm, including a 776
rifle, pistol, or revolver, or ammunition pursuant to federal law 777
under 18 U.S.C. 922(g)(8). If you have any questions whether this 778
law makes it illegal for you to possess or purchase a firearm or 779
ammunition, you should consult an attorney." 780

(3) All law enforcement agencies shall establish and maintain 781
an index for the protection orders and the approved consent 782
agreements delivered to the agencies pursuant to division (F)(1) 783
of this section. With respect to each order and consent agreement 784
delivered, each agency shall note on the index the date and time 785
that it received the order or consent agreement. 786

(4) Regardless of whether the petitioner has registered the 787
order or agreement in the county in which the officer's agency has 788
jurisdiction pursuant to division (N) of this section, any officer 789
of a law enforcement agency shall enforce a protection order 790
issued or consent agreement approved by any court in this state in 791
accordance with the provisions of the order or agreement, 792
including removing the respondent from the premises, if 793
appropriate. 794

(G) Any proceeding under this section shall be conducted in 795
accordance with the Rules of Civil Procedure, except that an order 796
under this section may be obtained with or without bond. An order 797
issued under this section, other than an ex parte order, that 798
grants a protection order or approves a consent agreement, that 799
refuses to grant a protection order or approve a consent agreement 800

that modifies or terminates a protection order or consent 801
agreement, or that refuses to modify or terminate a protection 802
order or consent agreement, is a final, appealable order. The 803
remedies and procedures provided in this section are in addition 804
to, and not in lieu of, any other available civil or criminal 805
remedies. 806

(H) The filing of proceedings under this section does not 807
excuse a person from filing any report or giving any notice 808
required by section 2151.421 of the Revised Code or by any other 809
law. When a petition under this section alleges domestic violence 810
against minor children, the court shall report the fact, or cause 811
reports to be made, to a county, township, or municipal peace 812
officer under section 2151.421 of the Revised Code. 813

(I) Any law enforcement agency that investigates a domestic 814
dispute shall provide information to the family or household 815
members involved regarding the relief available under this section 816
and section 2919.26 of the Revised Code. 817

(J) Notwithstanding any provision of law to the contrary and 818
regardless of whether a protection order is issued or a consent 819
agreement is approved by a court of another county or a court of 820
another state, no court or unit of state or local government shall 821
charge any fee, cost, deposit, or money in connection with the 822
filing of a petition pursuant to this section or in connection 823
with the filing, issuance, registration, or service of a 824
protection order or consent agreement, or for obtaining a 825
certified copy of a protection order or consent agreement. 826

(K)(1) The court shall comply with Chapters 3119., 3121., 827
3123., and 3125. of the Revised Code when it makes or modifies an 828
order for child support under this section. 829

(2) If any person required to pay child support under an 830
order made under this section on or after April 15, 1985, or 831

modified under this section on or after December 31, 1986, is 832
found in contempt of court for failure to make support payments 833
under the order, the court that makes the finding, in addition to 834
any other penalty or remedy imposed, shall assess all court costs 835
arising out of the contempt proceeding against the person and 836
require the person to pay any reasonable attorney's fees of any 837
adverse party, as determined by the court, that arose in relation 838
to the act of contempt. 839

(L)(1) A person who violates a protection order issued or a 840
consent agreement approved under this section is subject to the 841
following sanctions: 842

(a) Criminal prosecution or a delinquent child proceeding for 843
a violation of section 2919.27 of the Revised Code, if the 844
violation of the protection order or consent agreement constitutes 845
a violation of that section; 846

(b) Punishment for contempt of court. 847

(2) The punishment of a person for contempt of court for 848
violation of a protection order issued or a consent agreement 849
approved under this section does not bar criminal prosecution of 850
the person or a delinquent child proceeding concerning the person 851
for a violation of section 2919.27 of the Revised Code. However, a 852
person punished for contempt of court is entitled to credit for 853
the punishment imposed upon conviction of or adjudication as a 854
delinquent child for a violation of that section, and a person 855
convicted of or adjudicated a delinquent child for a violation of 856
that section shall not subsequently be punished for contempt of 857
court arising out of the same activity. 858

(M) In all stages of a proceeding under this section, a 859
petitioner may be accompanied by a victim advocate. 860

(N)(1) A petitioner who obtains a protection order or consent 861
agreement under this section or a temporary protection order under 862

section 2919.26 of the Revised Code may provide notice of the 863
issuance or approval of the order or agreement to the judicial and 864
law enforcement officials in any county other than the county in 865
which the order is issued or the agreement is approved by 866
registering that order or agreement in the other county pursuant 867
to division (N)(2) of this section and filing a copy of the 868
registered order or registered agreement with a law enforcement 869
agency in the other county in accordance with that division. A 870
person who obtains a protection order issued by a court of another 871
state may provide notice of the issuance of the order to the 872
judicial and law enforcement officials in any county of this state 873
by registering the order in that county pursuant to section 874
2919.272 of the Revised Code and filing a copy of the registered 875
order with a law enforcement agency in that county. 876

(2) A petitioner may register a temporary protection order, 877
protection order, or consent agreement in a county other than the 878
county in which the court that issued the order or approved the 879
agreement is located in the following manner: 880

(a) The petitioner shall obtain a certified copy of the order 881
or agreement from the clerk of the court that issued the order or 882
approved the agreement and present that certified copy to the 883
clerk of the court of common pleas or the clerk of a municipal 884
court or county court in the county in which the order or 885
agreement is to be registered. 886

(b) Upon accepting the certified copy of the order or 887
agreement for registration, the clerk of the court of common 888
pleas, municipal court, or county court shall place an endorsement 889
of registration on the order or agreement and give the petitioner 890
a copy of the order or agreement that bears that proof of 891
registration. 892

(3) The clerk of each court of common pleas, the clerk of 893
each municipal court, and the clerk of each county court shall 894

maintain a registry of certified copies of temporary protection 895
orders, protection orders, or consent agreements that have been 896
issued or approved by courts in other counties and that have been 897
registered with the clerk. 898

(O) Nothing in this section prohibits the domestic relations 899
division of a court of common pleas in counties that have a 900
domestic relations division or a court of common pleas in counties 901
that do not have a domestic relations division from designating a 902
minor child as a protected party on a protection order or consent 903
agreement. 904

Sec. 3113.311. (A) A petitioner who requests an ex parte 905
protection order pursuant to division (D)(1) of section 3113.31 of 906
the Revised Code shall describe in the petition the number, types, 907
and locations of any firearms presently known by the petitioner to 908
be possessed or controlled by the respondent. 909

(B) An ex parte protection order issued pursuant to division 910
(D)(1) of section 3113.31 of the Revised Code shall prohibit the 911
respondent from owning, possessing, purchasing, or receiving a 912
firearm or ammunition while that order is in effect. The order 913
shall include or be accompanied by a written notice that states 914
the respondent's obligations under this section, including the 915
specific date by which any firearms must be surrendered. 916

(C) A respondent who is served with an order and notice 917
described in division (B) of this section shall promptly surrender 918
any firearms in or subject to the respondent's immediate 919
possession or control. If the order and notice are served by a law 920
enforcement officer and the officer requests the surrender to the 921
officer of any firearms, the respondent shall immediately 922
surrender the firearms in a safe manner to the officer. If the 923
order and notice are not served by a law enforcement officer or 924
the officer does not request surrender to the officer of any 925

firearms, the respondent shall surrender any firearms within 926
twenty-four hours after service of the order and notice by 927
surrendering the firearms in a safe manner to a law enforcement 928
officer or by selling the firearms to a federally licensed 929
firearms dealer. An officer or dealer who takes possession of a 930
firearm pursuant to this section shall give a receipt for the 931
firearm to the respondent at the time of surrender or sale. 932

(D) Within forty-eight hours after being served with the 933
order and notice described in division (B) of this section, the 934
respondent shall do both of the following: 935

(1) File with the court that issued the order the receipt 936
showing that the firearm was surrendered to a law enforcement 937
officer or sold to a federally licensed firearms dealer; 938

(2) File a copy of the receipt with the law enforcement 939
agency that employs the officer who served the order and notice 940
or, if someone other than a law enforcement officer served the 941
order and notice, with the municipal law enforcement agency having 942
jurisdiction over the place where the order and notice were served 943
or, if that place is in an unincorporated area, with the sheriff 944
having jurisdiction over that place. 945

(E) A law enforcement agency may charge the respondent a fee 946
for the storage of any firearm surrendered pursuant to this 947
section. This fee shall not exceed the costs incurred by the 948
agency that are directly related to taking possession of and 949
storing the firearm and either returning the firearm to the 950
respondent or selling it to a federally licensed firearms dealer. 951

(F)(1) Within five days after the expiration of an order 952
described in division (B) of this section, a law enforcement 953
agency having custody of a firearm surrendered pursuant to the 954
order shall return the firearm to the respondent, unless another 955
protection order has been issued that prohibits the respondent 956

from possessing a firearm or the agency determines that the 957
firearm has been stolen or that the respondent is prohibited from 958
possessing a firearm under state or federal law. 959

(2)(a) If a law enforcement agency determines that the 960
respondent is the legal owner of any firearm deposited with the 961
agency and is prohibited from possessing any firearm, the 962
respondent may make one sale of all of the defendant's firearms 963
that are in the custody of the agency to a federally licensed 964
firearms dealer while the order remains in effect. Within five 965
days after a dealer presents the agency with a bill of sale 966
indicating that the respondent has sold to the dealer all of the 967
respondent's firearms that are in the agency's custody, the agency 968
shall give possession of those firearms to the dealer. 969

(b) If a law enforcement agency determines that the 970
respondent is not the legal owner of any firearm deposited with 971
the agency, the agency shall make a reasonable attempt to identify 972
and return the firearm to the legal owner. If the agency cannot 973
identify the legal owner or if the owner is prohibited from 974
possessing a firearm, the agency shall treat the firearm as 975
unclaimed property and dispose of it accordingly. 976

(G)(1) In an ex parte protection order issued pursuant to 977
division (D)(1) of section 3113.31 of the Revised Code, a court 978
may grant an exemption from the requirement that the respondent 979
surrender any firearms if the respondent can show that a 980
particular firearm is necessary as a condition of the respondent's 981
continued employment and that the current employer is unable to 982
reassign the respondent to another position where a firearm is 983
unnecessary. If the court grants an exemption, the order shall 984
provide that the respondent shall have physical possession of the 985
firearm only during scheduled work hours and during travel to and 986
from the respondent's place of employment. 987

(2) If the respondent is a peace officer who must carry a 988

firearm as a condition of employment and whose personal safety 989
depends on the ability to carry a firearm, a court may allow the 990
respondent to carry a firearm while on or off duty if, after a 991
psychological evaluation of the respondent, the court finds by a 992
preponderance of the evidence that the officer does not pose a 993
threat of harm. The court may require the peace officer to enter 994
into counseling or other remedial treatment program to deal with 995
any propensity for domestic violence. 996

(3) If the respondent notifies the court that the respondent 997
owns a firearm that is not in the respondent's immediate 998
possession, the court may limit the order to exclude that firearm 999
if the court is satisfied the respondent is unable to gain access 1000
to that firearm while the protective order is in effect. 1001

(H) If the respondent refuses to relinquish possession of any 1002
firearm on the grounds that such relinquishment would constitute 1003
self-incrimination in violation of the United States Constitution 1004
or Ohio Constitution, the court may grant use immunity for the act 1005
of relinquishing the firearm. 1006

Section 2. That existing sections 2919.26 and 3113.31 of the 1007
Revised Code are hereby repealed. 1008