

As Passed by the House

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Sub. S. B. No. 261

Senators Bacon, Manning

**Cosponsors: Senators Patton, Obhof, Seitz, Brown, Balderson, Beagle, Burke, Eklund, Hite, Hughes, Jones, LaRose, Oelslager, Sawyer, Tavares
Representatives Anielski, Antonio, Baker, Barborak, Beck, Boose, Boyce, Butler, Carney, Celebrezze, Grossman, Milkovich, O'Brien, Pillich, Rogers, Ruhl, Sprague, Stebelton, Stinziano, Strahorn, Terhar, Winburn, Young**

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A B I L L

To amend section 2919.27 of the Revised Code to 1
provide that service of a protection order or 2
consent agreement upon a person is not necessary 3
for the person to be convicted of the offense of 4
violating a protection order if the prosecution 5
proves that the person had actual notice of the 6
existence and terms of the order or agreement and 7
that the person recklessly violated its terms. 8

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

Section 1. That section 2919.27 of the Revised Code be 9
amended to read as follows: 10

Sec. 2919.27. (A) No person shall recklessly violate the 11
terms of any of the following: 12

(1) A protection order issued or consent agreement approved 13
pursuant to section 2919.26 or 3113.31 of the Revised Code; 14

(2) A protection order issued pursuant to section 2151.34, 2903.213, or 2903.214 of the Revised Code; 15
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(3) A protection order issued by a court of another state. 17

(B)(1) Whoever violates this section is guilty of violating a protection order. 18
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(2) Except as otherwise provided in division (B)(3) or (4) of this section, violating a protection order is a misdemeanor of the first degree. 20
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(3) ~~If~~ Violating a protection order is a felony of the fifth degree if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for ~~a~~ any of the following: 23
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(a) A violation of a protection order or consent agreement issued pursuant to section 2151.34, 2903.213, ~~or~~ 2903.214, or 3113.31 of the Revised Code, ~~two;~~ 27
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(b) Two or more violations of section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement, ~~or one;~~ 30
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(c) One or more violations of this section, ~~violating a protection order is a felony of the fifth degree.~~ 34
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(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony of the third degree. 36
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(5) If the protection order violated by the offender was an order issued pursuant to section 2151.34 or 2903.214 of the Revised Code that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by 39
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a law enforcement agency designated by the court. If the court
requires under this division that the offender be electronically
monitored, unless the court determines that the offender is
indigent, the court shall order that the offender pay the costs of
the installation of the electronic monitoring device and the cost
of monitoring the electronic monitoring device. If the court
determines that the offender is indigent and subject to the
maximum amount allowable and the rules promulgated by the attorney
general under section 2903.214 of the Revised Code, the costs of
the installation of the electronic monitoring device and the cost
of monitoring the electronic monitoring device may be paid out of
funds from the reparations fund created pursuant to section
2743.191 of the Revised Code. The total amount paid from the
reparations fund created pursuant to section 2743.191 of the
Revised Code for electronic monitoring under this section and
sections 2151.34 and 2903.214 of the Revised Code shall not exceed
three hundred thousand dollars per year.

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

(D) If a person is charged with a violation of this section,
service of the protection order or consent agreement on the
defendant is not required to prove the violation if the
prosecution proves that the defendant had actual notice of the
existence and terms of the protection order or consent agreement
and proves that the defendant recklessly violated the terms of the
order or agreement.

(E) As used in this section, ~~"protection:~~

(1) "Protection order issued by a court of another state"

means an injunction or another order issued by a criminal court of 77
another state for the purpose of preventing violent or threatening 78
acts or harassment against, contact or communication with, or 79
physical proximity to another person, including a temporary order, 80
and means an injunction or order of that nature issued by a civil 81
court of another state, including a temporary order and a final 82
order issued in an independent action or as a pendente lite order 83
in a proceeding for other relief, if the court issued it in 84
response to a complaint, petition, or motion filed by or on behalf 85
of a person seeking protection. "Protection order issued by a 86
court of another state" does not include an order for support or 87
for custody of a child issued pursuant to the divorce and child 88
custody laws of another state, except to the extent that the order 89
for support or for custody of a child is entitled to full faith 90
and credit under the laws of the United States. 91

(2) "Actual notice" means knowledge of the existence and 92
terms of a protection order or agreement by being shown a 93
time-stamped copy of the order or agreement by any means, 94
including electronic means, by any person. 95

Section 2. That existing section 2919.27 of the Revised Code 96
is hereby repealed. 97

Section 3. The General Assembly declares its intent that the 98
amendments made by this act to division (D) of section 2919.27 of 99
the Revised Code are intended to supersede the holding of the Ohio 100
Supreme Court in State v. Smith (2013), 136 Ohio St.3d 1, so that 101
unperfected service of a protection order or consent agreement 102
does not preclude a prosecution for a violation of division (A) of 103
that section. 104