



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

Am. Sub. S.B. 177* 130th General Assembly (As Reported by H. Judiciary)

Sens. Skindell and Hughes, Brown, Cafaro, Gentile, Kearney, Schiavoni, Sawyer, Smith, Tavares, Turner, Beagle, Burke, Coley, Eklund, Gardner, Hite, Jones, LaRose, Manning, Obhof, Patton, Seitz

BILL SUMMARY

- Permits the court, when issuing a juvenile court protection order, a criminal protection order based on a crime not involving a family or household member, a criminal temporary protection order based on a crime involving a family or household member, or a civil stalking, domestic violence, or sexually oriented offense protection order or consent agreement, to include within the order or consent agreement a term requiring that the respondent or alleged offender not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the person to be protected, or a term authorizing the person to be protected to remove a companion animal owned by the person to be protected from the possession of the respondent or alleged offender.
- Eliminates the exemption of domestic relations proceedings from the requirement that additional filing fees be collected in a civil action to provide financial assistance to legal aid societies and to support the State Public Defender's Office.
- Modifies the exemption of juvenile courts from the above requirement by providing an additional filing fee for custody, visitation, and parentage actions.

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

CONTENT AND OPERATION

Introduction

The bill amends the sections of the Revised Code dealing with the issuance of protection orders to expressly authorize the protection of a companion animal within the scope of the orders. In all of the bill's amendments to those sections, "companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept; "companion animal" does not include livestock or any wild animal.¹

Juvenile court protection orders

Under current law, a person may file a petition in the juvenile division of the court of common pleas of the county in which the person to be protected by the order resides alleging that another person who is under 18 years of age engaged in a violation of R.C. 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), or 2903.211 (aggravated trespass), committed a sexually oriented offense, or engaged in a violation of a municipal ordinance substantially equivalent to any of those offenses against the person to be protected by the order (i.e., the petitioner, a family or household member of the petitioner, or any child if the court determines that the petitioner is an appropriate person to seek relief on behalf of the child) and requesting the issuance of a juvenile court protection order. The petitioner must include additional information if the petitioner seeks electronic monitoring of the respondent. If a person who files a petition requests an *ex parte* order, the juvenile court must hold an *ex parte* hearing not later than the next court day after the petition is filed. The juvenile court, for good cause shown at the *ex parte* hearing, may enter any temporary orders that it finds necessary for the safety and protection of the person to be protected by the order. If the juvenile court issues a protection order after an *ex parte* hearing, it must schedule a full hearing for a date that is within ten court days after the *ex parte* hearing. The court must give the respondent, and the parent, guardian, or custodian of the respondent, notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition does not request an *ex parte* order, or if a person requests an *ex parte* order but the juvenile court does not issue an *ex parte* order after an *ex parte* hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter. After an *ex parte* or full hearing, the juvenile court may issue a

¹ R.C. 2151.34(A), 2903.213(J), 2903.214(A), 2919.26(K), and 3113.31(A), by reference to R.C. 959.131, which is not in the bill.



protection order that contains terms designed to ensure the safety and protection of the person to be protected by the protection order.²

The bill does not change the procedure for requesting or issuing such a protection order. However, it provides that the juvenile court may include within the order a term requiring that the respondent not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the person to be protected by the order, and may include within the order a term authorizing the person to be protected by the order to remove a companion animal owned by the person to be protected by the order from the possession of the respondent.³

Criminal protection orders based on a crime not involving a family or household member

Under current law, upon the filing with the court that has jurisdiction of the case of a criminal complaint that does not involve a family or household member and that alleges a violation of R.C. 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), or 2911.211 (aggravated trespass), a violation of a municipal ordinance substantially similar to any of those sections containing a misdemeanor offense, 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 with the court requesting a protection order as a pretrial condition of release. The court must conduct a hearing on the motion not later than the next court day after the motion is filed.

If the court finds at the hearing that the safety and protection of the complainant or alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a protection order as a pretrial condition of release that contains terms designed to ensure the safety and protection of the complainant or the alleged victim, including any of a list of specified requirements. The court also may issue such a protection order pursuant to its own motion (upon the filing of a complaint alleging a violation described above).

If the court issues such a protection order as an *ex parte* order, it must conduct, not later than the next court day after its issuance, a hearing to determine whether the order should remain in effect, be modified, or be revoked.⁴

² R.C. 2151.34.

³ R.C. 2151.34(E)(1)(a).

⁴ R.C. 2903.213.



The bill does not change the procedures for requesting or granting such a protection order. However, it provides that the court may include within the order a term requiring that the alleged offender not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the complainant or the alleged victim, and may include within the order a term authorizing the complainant or the alleged victim to remove a companion animal owned by the complainant or the alleged victim from the possession of the alleged offender.⁵

Civil stalking or sexually oriented offense protection orders involving any person

Under current law, a person may file a petition in the court of common pleas of the county in which the person resides alleging that another person who is 18 or older engaged in a violation of R.C. 2903.211 (menacing by stalking) against the person or against a family or household member of the person or committed a sexually oriented offense against the person or a family or household member of the person and requesting the issuance of a civil stalking or sexually oriented offense protection order. If a person who files a petition requests an *ex parte* order, the court must hold an *ex parte* hearing not later than the next court day after the petition is filed. The court, for good cause shown at the *ex parte* hearing, may enter any temporary orders that it finds necessary for the safety and protection of the person to be protected by the order. If the court issues a protection order after an *ex parte* hearing, it must schedule a full hearing for a date that is within ten court days after the *ex parte* hearing. The court must give the respondent notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition does not request an *ex parte* order, or if a person requests an *ex parte* order but the court does not issue an *ex parte* order after an *ex parte* hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter. After an *ex parte* or full hearing, the court may issue a protection order that contains terms designed to ensure the safety and protection of the person to be protected by the protection order, including any of a list of specified requirements.⁶

The bill does not change the procedure for requesting or issuing such a protection order. However, it provides that the court may include within the order a term requiring that the respondent not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the person to be protected by the order, and may include within the order a term authorizing the person to be protected by the order

⁵ R.C. 2903.213(C)(1).

⁶ R.C. 2903.214.

to remove a companion animal owned by the person to be protected by the order from the possession of the respondent.⁷

Criminal temporary protection orders based on a crime involving a family or household member

Under current law, upon the filing of a criminal complaint that alleges a violation of R.C. 2909.06 (criminal damaging or endangering), 2909.07 (criminal mischief), 2911.12 (burglary), or 2911.211 (aggravated trespass) or of a similar municipal ordinance, any offense of violence, or any sexually oriented offense, if the alleged victim of any of those violations or offenses was a family or household member at the time of the violation, the complainant, the alleged victim, a family or household member of an alleged victim, or another specified person may file a motion that requests the issuance of a temporary protection order as a pretrial condition of release of the alleged offender. The court must conduct a hearing on the motion not later than 24 hours after the filing of the motion to determine whether to issue the order.

If, after the hearing, the court finds that the safety and protection of the complainant, alleged victim, or any other family or household member of the alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a temporary protection order as a pretrial condition of release that contains terms designed to ensure the safety and protection of the complainant, alleged victim, or family or household member, including any of a list of specified requirements. The court also may issue such an order on its own motion (upon the filing of a complaint alleging any of the above violations or offenses).

If the court issues a temporary protection order as an *ex parte* order, it must conduct a hearing in the presence of the alleged offender not later than the next court day after the day on which the alleged offender was arrested or at the time of the appearance of the alleged offender pursuant to summons to determine whether the order should remain in effect, be modified, or be revoked.⁸

The bill does not change the procedure for requesting or issuing such a protection order. However, it provides that the court may include within the order a term requiring that the alleged offender not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the complainant, alleged victim, or any other family or household member of the alleged victim, and may include within the order a term authorizing the complainant, alleged victim, or any other family or

⁷ R.C. 2903.214(E)(1)(a).

⁸ R.C. 2919.26.



household member of the alleged victim to remove a companion animal owned by the complainant, alleged victim, or other family or household member from the possession of the alleged offender.⁹

Domestic violence or sexually oriented offense civil protection orders involving a family or household member

Under current law, a person may file a petition in a court of common pleas alleging that a respondent engaged in domestic violence against a family or household member (defined to include acts generally thought of as domestic violence and also the commission of a sexually oriented offense against a family or household member) and requesting the issuance of a civil domestic violence protection order. If a person who files such a petition requests an *ex parte* order, the court must hold an *ex parte* hearing on the same day that the petition is filed. The court, for good cause shown at the *ex parte* hearing, may enter any temporary orders that it finds necessary to protect the family or household member from domestic violence. If the court issues a protection order after an *ex parte* hearing, it must schedule a full hearing within ten days (or within seven days in some circumstances) and give the respondent notice of, and an opportunity to be heard at, the full hearing.

If a person who files a petition does not request an *ex parte* order, or if a person requests an *ex parte* order but the court does not issue an *ex parte* order after an *ex parte* hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter. After an *ex parte* or full hearing, the court may grant any protection order or approve any consent agreement to bring about the cessation of domestic violence against the family or household members, including by providing any of a list of specified remedies.¹⁰

The bill does not change the procedures for requesting or issuing such a protection order or approving such a consent agreement. However, it provides that the court may include within the order or consent agreement a term requiring that the respondent not remove, damage, hide, harm, or dispose of any companion animal owned or possessed by the petitioner, and may include within the order or agreement a term authorizing the petitioner to remove a companion animal owned by the petitioner from the possession of the respondent.¹¹

⁹ R.C. 2919.26(C)(1).

¹⁰ R.C. 3113.31.

¹¹ R.C. 3113.31(E)(1)(i) and (j).



Additional filing fees in civil actions

The bill eliminates the exemption from current law's additional filing fee requirements for proceedings dealing with annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital or separate property distribution, support, or other domestic relations matters. This requirement in current law is for courts of common pleas to collect \$26 as additional filing fees in a civil action or proceeding for the charitable purpose of providing financial assistance to legal aid societies in Ohio and to support the State Public Defender's Office. The bill modifies the exemption of a court of common pleas juvenile division from the above additional filing fee requirements by providing that an additional filing fee of \$15 applies to custody, visitation, and parentage actions.¹²

HISTORY

ACTION	DATE
Introduced	08-12-13
Reported, S. Criminal Justice	05-14-14
Passed Senate (33-0)	06-03-14
Reported, H. Judiciary	---

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¹² R.C. 2303.201(C).

