

As Reported by the House Criminal Justice Committee

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Sub. S. B. No. 7

Senators Bacon, Manning

Cosponsors: Senators Obhof, Beagle, Gardner, Uecker, Eklund, LaRose, Skindell, Huffman, Hite, Brown, Schiavoni, Hoagland, Wilson, Balderson, Burke, Coley, Dolan, Hackett, Hottinger, Jordan, Kunze, Lehner, Oelslager, Peterson, Sykes, Tavares, Terhar, Thomas, Williams, Yuko Representatives Manning, Rezabek, Celebrezze, Butler, Conditt, Cupp, Kent, Rogers

A BILL

To amend section 2919.27 of the Revised Code to
provide the circumstances when service of a
protection order or consent agreement upon a
person is not necessary for the person to be
convicted of the offense of violating a
protection order.

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

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

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

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

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(2) A protection order issued pursuant to section 2151.34,
2903.213, or 2903.214 of the Revised Code;

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(3) A protection order issued by a court of another state. 16

(B) (1) Whoever violates this section is guilty of 17
violating a protection order. 18

(2) Except as otherwise provided in division (B) (3) or (4) 19
of this section, violating a protection order is a misdemeanor 20
of the first degree. 21

(3) ~~If~~ Violating a protection order is a felony of the 22
fifth degree if the offender previously has been convicted of, 23
pleaded guilty to, or been adjudicated a delinquent child for a- 24
any of the following: 25

(a) A violation of a protection order issued or consent 26
agreement approved pursuant to section 2151.34, 2903.213, or 27
2903.214, 2919.26, or 3113.31 of the Revised Code, two; 28

(b) Two or more violations of section 2903.21, 2903.211, 29
2903.22, or 2911.211 of the Revised Code, or any combination of 30
those offenses, that involved the same person who is the subject 31
of the protection order or consent agreement, ~~or one;~~ 32

(c) One or more violations of this section, violating a 33
~~protection order is a felony of the fifth degree.~~ 34

(4) If the offender violates a protection order or consent 35
agreement while committing a felony offense, violating a 36
protection order is a felony of the third degree. 37

(5) If the protection order violated by the offender was 38
an order issued pursuant to section 2151.34 or 2903.214 of the 39
Revised Code that required electronic monitoring of the offender 40
pursuant to that section, the court may require in addition to 41
any other sentence imposed upon the offender that the offender 42
be electronically monitored for a period not exceeding five 43

years by a law enforcement agency designated by the court. If 44
the court requires under this division that the offender be 45
electronically monitored, unless the court determines that the 46
offender is indigent, the court shall order that the offender 47
pay the costs of the installation of the electronic monitoring 48
device and the cost of monitoring the electronic monitoring 49
device. If the court determines that the offender is indigent 50
and subject to the maximum amount allowable and the rules 51
promulgated by the attorney general under section 2903.214 of 52
the Revised Code, the costs of the installation of the 53
electronic monitoring device and the cost of monitoring the 54
electronic monitoring device may be paid out of funds from the 55
reparations fund created pursuant to section 2743.191 of the 56
Revised Code. The total amount paid from the reparations fund 57
created pursuant to section 2743.191 of the Revised Code for 58
electronic monitoring under this section and sections 2151.34 59
and 2903.214 of the Revised Code shall not exceed three hundred 60
thousand dollars per year. 61

(C) It is an affirmative defense to a charge under 62
division (A) (3) of this section that the protection order issued 63
by a court of another state does not comply with the 64
requirements specified in 18 U.S.C. 2265(b) for a protection 65
order that must be accorded full faith and credit by a court of 66
this state or that it is not entitled to full faith and credit 67
under 18 U.S.C. 2265(c). 68

(D) In a prosecution for a violation of this section, it 69
is not necessary for the prosecution to prove that the 70
protection order or consent agreement was served on the 71
defendant if the prosecution proves that the defendant was shown 72
the protection order or consent agreement or a copy of either or 73
a judge, magistrate, or law enforcement officer informed the 74

defendant that a protection order or consent agreement had been 75
issued, and proves that the defendant recklessly violated the 76
terms of the order or agreement. 77

(E) As used in this section, "protection order issued by a 78
court of another state" means an injunction or another order 79
issued by a criminal court of another state for the purpose of 80
preventing violent or threatening acts or harassment against, 81
contact or communication with, or physical proximity to another 82
person, including a temporary order, and means an injunction or 83
order of that nature issued by a civil court of another state, 84
including a temporary order and a final order issued in an 85
independent action or as a pendente lite order in a proceeding 86
for other relief, if the court issued it in response to a 87
complaint, petition, or motion filed by or on behalf of a person 88
seeking protection. "Protection order issued by a court of 89
another state" does not include an order for support or for 90
custody of a child issued pursuant to the divorce and child 91
custody laws of another state, except to the extent that the 92
order for support or for custody of a child is entitled to full 93
faith and credit under the laws of the United States. 94

Section 2. That existing section 2919.27 of the Revised 95
Code is hereby repealed. 96

Section 3. The amendments made by this act to division (D) 97
of section 2919.27 of the Revised Code are intended to supersede 98
the holding of the Ohio Supreme Court in *State v. Smith* (2013), 99
136 Ohio St.3d 1, so that unperfected service of a protection 100
order or consent agreement does not preclude a prosecution for a 101
violation of division (A) of that section. 102