

AN ACT

To amend sections 1901.20, 1907.02, 2903.213, 2919.26, 2930.06, and 2931.03 of the Revised Code to provide that a court is not authorized to dismiss criminal charges when the only reason for dismissal is the request of the complaining witness and the prosecutor objects to the dismissal and to specify that domestic violence criminal temporary protection orders and anti-stalking protection orders issued by a municipal court or county court continue in effect subsequent to the transfer of the case to a court of common pleas until disposition of the case or, in relation to domestic violence criminal temporary protection orders, the issuance of a domestic violence civil protection order.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1901.20, 1907.02, 2903.213, 2919.26, 2930.06, and 2931.03 of the Revised Code be amended to read as follows:

Sec. 1901.20. (A)(1) The municipal court has jurisdiction of the violation of any ordinance of any municipal corporation within its territory, unless the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code, and of the violation of any misdemeanor committed within the limits of its territory. The municipal court has jurisdiction of the violation of a vehicle parking or standing resolution or regulation if a local authority, as defined in division (D) of section 4521.01 of the Revised Code, has specified that it is not to be considered a criminal offense, if the violation is committed within the limits of the court's territory, and if the violation is not required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code. The municipal court, if it has a housing or environmental division, has jurisdiction of any criminal action over which the housing or environmental

division is given jurisdiction by section 1901.181 of the Revised Code, provided that, except as specified in division (B) of that section, no judge of the court other than the judge of the division shall hear or determine any action over which the division has jurisdiction. In all such prosecutions and cases, the court shall proceed to a final determination of the prosecution or case.

(2) A judge of a municipal court does not have the authority to dismiss a criminal complaint, charge, information, or indictment solely at the request of the complaining witness and over the objection of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer who is responsible for the prosecution of the case.

(B) The municipal court has jurisdiction to hear felony cases committed within its territory. In all felony cases, the court may conduct preliminary hearings and other necessary hearings prior to the indictment of the defendant or prior to the court's finding that there is probable and reasonable cause to hold or recognize the defendant to appear before a court of common pleas and may discharge, recognize, or commit the defendant.

(C) A municipal court has jurisdiction of an appeal from a judgment or default judgment entered pursuant to Chapter 4521. of the Revised Code, as authorized by division (D) of section 4521.08 of the Revised Code. The appeal shall be placed on the regular docket of the court and shall be determined by a judge of the court.

Sec. 1907.02. (A)(1) In addition to other jurisdiction granted a county court in the Revised Code, a county court has jurisdiction of all misdemeanor cases. A county court has jurisdiction to conduct preliminary hearings in felony cases, to bind over alleged felons to the court of common pleas, and to take other action in felony cases as authorized by Criminal Rule 5.

(2) A judge of a county court does not have the authority to dismiss a criminal complaint, charge, information, or indictment solely at the request of the complaining witness and over the objection of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer who is responsible for the prosecution of the case.

(B) A county court has jurisdiction of the violation of a vehicle parking or standing ordinance, resolution, or regulation if a local authority, as defined in division (D) of section 4521.01 of the Revised Code, has specified that it is not to be considered a criminal offense, if the violation is committed within the limits of the court's territory, and if the violation is not required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code. A county

court does not have jurisdiction over violations of ordinances, resolutions, or regulations that are required to be handled by a parking violations bureau or joint parking violations bureau pursuant to that chapter.

A county court also has jurisdiction of an appeal from a judgment or default judgment entered pursuant to Chapter 4521. of the Revised Code, as authorized by division (D) of section 4521.08 of the Revised Code. Any such appeal shall be placed on the regular docket of the court and shall be determined by a judge of the court.

Sec. 2903.213. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, upon the filing of a complaint that alleges a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code or a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, the complainant may file a motion that requests the issuance of an anti-stalking protection order as a pretrial condition of release of the alleged offender, in addition to any bail set under Criminal Rule 46. The motion shall be filed with the clerk of the court that has jurisdiction of the case at any time after the filing of the complaint. If the complaint involves a person who is a family or household member, the complainant may file a motion for a temporary protection order pursuant to section 2919.26 of the Revised Code.

(B) A motion for an anti-stalking protection order shall be prepared on a form that is provided by the clerk of the court, which form shall be substantially as follows:

"Motion for Anti-stalking Protection Order Court Name and
address of court

State of Ohio

v. No.

.....
Name of Defendant

(Name of person), the complainant in the above-captioned case, moves the court to issue an anti-stalking protection order containing terms designed to ensure the safety and protection of the complainant in relation to the named defendant, pursuant to its authority to issue such an order under section 2903.213 of the Revised Code.

A complaint, a copy of which has been attached to this motion, has been filed in this court charging the named defendant with a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code or a violation of a municipal ordinance substantially similar to

section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code.

I understand that I must appear before the court, at a time set by the court not later than the next day that the court is in session after the filing of this motion, for a hearing on the motion, and that any anti-stalking protection order granted pursuant to this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached complaint.

.....
Signature of complainant

.....
Address of complainant"

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

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

(2) If the court issues an anti-stalking protection order under this section as an ex parte order, it shall conduct, as soon as possible after the issuance of the order but not later than the next day the court is in session after its issuance, a hearing to determine whether the order should remain in effect, be modified, or be revoked. The hearing shall be conducted under the standards set forth in division (C) of this section.

(3) If a municipal court or a county court issues an anti-stalking PROTECTION order under this section and if, subsequent to the issuance of the order, the alleged offender who is the subject of the order is bound over

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

(E) An anti-stalking protection order that is issued as a pretrial condition of release under this section:

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

(2) Is effective only until the disposition, by the court that issued the order or, in the circumstances described in division (D)(3) of this section, by the court of common pleas to which the alleged offender is bound over for prosecution, of the criminal proceeding arising out of the complaint upon which ~~it~~ the order is based;

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

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

(G)(1) A copy of any anti-stalking protection order that is issued under this section shall be issued by the court to the complainant, to the defendant, and to all law enforcement agencies that have jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the defendant on the same day that the order is entered. If a municipal court or a county court issues an anti-stalking PROTECTION order under this section and if, subsequent to the issuance of the order, the defendant who is the

subject of the order is bound over to the court of common pleas for PROSECUTION as described in division (D)(3) of this section, the MUNICIPAL court or county court shall direct that a copy of the order be delivered to the court of common pleas to which the defendant is bound over.

(2) All law enforcement agencies shall establish and maintain an index for the anti-stalking protection orders delivered to the agencies pursuant to division (G)(1) of this section. With respect to each order delivered, each agency shall note on the index, the date and time of the receipt of the order by the agency.

(3) Any officer of a law enforcement agency shall enforce an anti-stalking protection order in accordance with the provisions of the order.

(H) Upon a violation of an anti-stalking protection order, the court may issue another anti-stalking protection order, as a pretrial condition of release, that modifies the terms of the order that was violated.

(I) Notwithstanding any provision of law to the contrary, no court shall charge a fee for the filing of a motion pursuant to this section.

Sec. 2919.26. (A)(1) Upon the filing of a complaint that alleges a violation of section 2919.25 of the Revised Code, a violation of a municipal ordinance substantially similar to that section, a violation of section 2903.11, 2903.12, 2903.13, 2903.211, or 2911.211 of the Revised Code that involves a person who was a family or household member at the time of the violation, or a violation of a municipal ordinance that is substantially similar to section 2903.13, 2903.211, or 2911.211 of the Revised Code that involves a person who was a family or household member at the time of the violation, the complainant may file, or, if in an emergency the complainant is unable to file, a person who made an arrest for the alleged violation under section 2935.03 of the Revised Code may file on behalf of the complainant, a motion that requests the issuance of a temporary protection order as a pretrial condition of release of the alleged offender, in addition to any bail set under Criminal Rule 46. The motion shall be filed with the clerk of the court that has jurisdiction of the case at any time after the filing of the complaint.

(2) For purposes of section 2930.09 of the Revised Code, all stages of a proceeding arising out of a violation specified in division (A)(1) of this section, including all proceedings on a motion for a temporary protection order, are critical stages of the case, and a complainant may be accompanied by a victim advocate or another person to provide support to the victim as provided in that section.

(B) The motion shall be prepared on a form that is provided by the clerk

of the court, which form shall be substantially as follows:

"MOTION FOR TEMPORARY PROTECTION ORDER

..... Court

Name and address of court

State of Ohio

v. No.

.....

Name of Defendant

(name of person), the complainant in the above-captioned case, moves the court to issue a temporary protection order containing terms designed to ensure the safety and protection of the complainant and other family or household members, in relation to the named defendant, pursuant to its authority to issue such an order under section 2919.26 of the Revised Code.

A complaint, a copy of which has been attached to this motion, has been filed in this court charging the named defendant with at least one of the following violations of section 2919.25 of the Revised Code that constitutes "domestic violence" or a municipal ordinance that is substantially similar to that section: knowingly causing or attempting to cause physical harm to a family or household member; recklessly causing serious physical harm to a family or household member; or, by threat of force, knowingly causing a family or household member to believe that the named defendant would cause imminent physical harm to that family or household member; charging the named defendant with felonious assault, aggravated assault, or assault that involved a family or household member in violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code; charging the named defendant with menacing by stalking or aggravated trespass that involves a family or household member in violation of section 2903.211 or 2911.211 of the Revised Code; or charging the named defendant with a violation of a municipal ordinance that is substantially similar to section 2903.13, 2903.211, or 2911.211 of the Revised Code that involves a family or household member.

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

or the issuance of a civil protection order or the approval of a consent agreement, arising out of the same activities as those that were the basis of the complaint, under section 3113.31 of the Revised Code.

.....

Signature of complainant

(or signature of the arresting officer who filed the motion on behalf of the complainant)

.....

Address of complainant (or office address of the arresting officer who filed the motion on behalf of the complainant)"

(C)(1) As soon as possible after the filing of a motion that requests the issuance of a temporary protection order, but not later than twenty-four hours after the filing of the motion, the court shall conduct a hearing to determine whether to issue the order. The person who requested the order shall appear before the court and provide the court with the information that it requests concerning the basis of the motion. If the person who requested the order is unable to appear and if the court finds that the failure to appear is because of the person's hospitalization or medical condition resulting from the offense alleged in the complaint, another person who is able to provide the court with the information it requests may appear in lieu of the person who requested the order. If the court finds that the safety and protection of the complainant or any other family or household member of the alleged offender 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 or the family or household member, including a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the complainant or the family or household member.

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

(b) Division (C)(2)(a) of this section does not limit any discretion of a court to determine that an alleged offender 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 temporary protection order issued under this section, did not commit the violation or was not in contempt of court.

(D)(1) Upon the filing of a complaint that alleges a violation of section 2919.25 of the Revised Code, a violation of a municipal ordinance that is substantially similar to that section, a violation of section 2903.11, 2903.12, 2903.13, 2903.211, or 2911.211 of the Revised Code that involves a person who was a family or household member at the time of the violation, or a violation of a municipal ordinance that is substantially similar to section 2903.13, 2903.211, or 2911.211 of the Revised Code that involves a person who was a family or household member at the time of the violation, the court, upon its own motion, may issue a temporary protection order as a pretrial condition of release if it finds that the safety and protection of the complainant or other family or household member of the alleged offender may be impaired by the continued presence of the alleged offender.

(2) If the court issues a temporary protection order under this section as an ex parte order, it shall conduct, as soon as possible after the issuance of the order, a hearing in the presence of the alleged offender not later than the next day on which the court is scheduled to conduct business 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. The hearing shall be conducted under the standards set forth in division (C) of this section.

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

(4) If a municipal court or a county court issues a temporary PROTECTION order under this section and if, subsequent to the issuance of the order, the alleged offender who is the subject of the order is bound over to the court of common pleas for PROSECUTION of a felony arising out of the same activities as those that were the basis of the complaint upon which the order is based, notwithstanding the fact that the order was issued by a municipal court or county court, the order shall remain in effect, as though it were an order of the court of common pleas, while the charges against the alleged offender are pending in the court of common pleas, for the period of time described in division (e)(2) of this section, and the court of common pleas has exclusive jurisdiction to modify the order issued by the municipal court or county court. this division applies when the alleged offender is bound over to the court of common pleas as a result of the person waiving a

preliminary hearing on the felony charge, as a result of the municipal court or county court having determined at a preliminary hearing that there is probable cause to believe that the felony has been committed and that the alleged offender committed it, as a result of the alleged offender having been indicted for the felony, or in any other manner.

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

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

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

(a) The disposition, by the court that issued the order or, in the circumstances described in DIVISION (D)(4) of this section, by the court of common pleas to which the alleged offender is bound over for PROSECUTION, of the criminal proceeding arising out of the complaint upon which it the order is based, or the;

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

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

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

(G)(1) A copy of any temporary protection order that is issued under this section shall be issued by the court to the complainant, to the defendant, and to all law enforcement agencies that have jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the defendant on the same day that the order is entered. If a municipal court or a county court issues a temporary PROTECTION order under this section and if, subsequent to the issuance of the order, the defendant who is the subject of the order is bound over to the court of common pleas for PROSECUTION as described in division (d)(4) of this section, the MUNICIPAL court or county court shall direct that a copy of the order be delivered to the court of common pleas to which the defendant is bound over.

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

(3) A complainant who obtains a temporary protection order under this section may provide notice of the issuance of the temporary protection order to the judicial and law enforcement officials in any county other than the county in which the order is issued by registering that order in the other county in accordance with division (N) of section 3113.31 of the Revised Code and filing a copy of the registered protection order with a law enforcement agency in the other county in accordance with that division.

(4) Any officer of a law enforcement agency shall enforce a temporary protection order issued by any court in this state in accordance with the provisions of the order, including removing the defendant from the premises, regardless of whether the order is registered in the county in which the officer's agency has jurisdiction as authorized by division (G)(3) of this section.

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

(I)(1) As used in divisions (I)(1) and (2) of this section, "defendant" means a person who is alleged in a complaint to have committed a violation of the type described in division (A) of this section.

(2) If a complaint is filed that alleges that a person committed a violation of the type described in division (A) of this section, the court may not issue a temporary protection order under this section that requires the complainant or another family or household member of the defendant to do or refrain from doing an act that the court may require the defendant to do or refrain from doing under a temporary protection order unless both of the following apply:

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

(b) The court determines that both the complainant or other family or household member in question who would be required under the order to do or refrain from doing the act and the defendant acted primarily as aggressors, that neither the complainant or other family or household member in question who would be required under the order to do or refrain

from doing the act nor the defendant acted primarily in self-defense, and, in accordance with the standards and criteria of this section as applied in relation to the separate complaint filed by the defendant, that it should issue the order to require the complainant or other family or household member in question to do or refrain from doing the act.

(J) Notwithstanding any provision of law to the contrary, no court shall charge a fee for the filing of a motion pursuant to this section.

(K) As used in this section, "victim advocate" means a person who provides support and assistance for a victim of an offense during court proceedings.

Sec. 2930.06. (A) The prosecutor in a case, to the extent practicable, shall confer with the victim in the case before pretrial diversion is granted to the defendant in the case, before amending or dismissing an indictment, information, or complaint against that defendant, before agreeing to a negotiated plea for that defendant, or before a trial of that defendant by judge or jury. If the prosecutor fails to confer with the victim at any of those times, the court, if informed of the failure, shall note on the record the failure and the prosecutor's reasons for the failure. A prosecutor's failure to confer with a victim as required by this division does not affect the validity of an agreement between the prosecutor and the defendant in the case, a pretrial diversion of the defendant, an amendment or dismissal of an indictment, information, or complaint filed against the defendant, a plea entered by the defendant, or any other disposition in the case. A court shall not dismiss a criminal complaint, charge, information, or indictment solely at the request of the victim and over the objection of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer responsible for the prosecution of the case.

(B) After a prosecution in a case has been commenced, the prosecutor or a designee of the prosecutor other than a court or court employee, to the extent practicable, promptly shall give the victim all of the following information:

(1) The name of the offense with which the defendant in the case has been charged and the name of the defendant;

(2) The file number of the case;

(3) A brief statement regarding the procedural steps in a criminal case involving an offense similar to the offense with which the defendant has been charged and the right of the victim to be present during all proceedings held throughout the prosecution of a case;

(4) A summary of the rights of a victim under this chapter;

(5) Procedures the victim or the prosecutor may follow if the victim

becomes subject to threats or intimidation by the defendant or any other person;

(6) The name and business telephone number of a person to contact for further information with respect to the case;

(7) The right of the victim to have a victim's representative exercise the victim's rights under this chapter in accordance with section 2930.02 of the Revised Code and the procedure by which a victim's representative may be designated;

(8) Notice that any notification under division (C) of this section and sections 2930.07 to 2930.19 of the Revised Code will be given to the victim only if the victim asks to receive the notification.

(C) Upon the request of the victim, the prosecutor shall give the victim notice of the date, time, and place of any scheduled court proceedings in the case and notice of any changes in those proceedings or in the schedule in the case.

(D) A victim who requests notice under division (C) of this section and who elects pursuant to division (B) of section 2930.03 of the Revised Code to receive any further notice from the prosecutor under this chapter shall keep the prosecutor informed of the victim's current address and telephone number until the case is dismissed or terminated, the defendant is acquitted or sentenced, or the appellate process is completed, whichever is the final disposition in the case.

Sec. 2931.03. The court of common pleas has original jurisdiction of all crimes and offenses, except in cases of minor offenses the exclusive jurisdiction of which is vested in courts inferior to the court of common pleas.

A judge of a court of common pleas does not have the authority to dismiss a criminal complaint, charge, information, or indictment solely at the request of the complaining witness and over the objection of the prosecuting attorney or other chief legal officer who is responsible for the prosecution of the case.

SECTION 2. That existing sections 1901.20, 1907.02, 2903.213, 2919.26, 2930.06, and 2931.03 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 98

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____