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132nd General Assembly
Regular Session
2017-2018

Sub. S. B. No. 7

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.

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(B) (1) Whoever violates this section is guilty of

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violating a protection order.

(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.

(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:

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

(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;~~

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

(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.

(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 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) In a prosecution for a violation of this section, it
is not necessary for the prosecution to prove that the
protection order or consent agreement was served on the
defendant if the prosecution proves that the defendant was shown
the protection order or consent agreement or a copy of either or
a judge, magistrate, or law enforcement officer informed the
defendant that a protection order or consent agreement had been
issued, and proves that the defendant recklessly violated the
terms of the order or agreement.

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

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

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