

Testimony in Support of SB 28 before Senate Judiciary Committee

March 13, 2019

Chairman Eklund, Vice Chairman Manning, and fellow Committee Members:

My name is Melanie Tobias and I am an assistant city attorney with the Columbus City Attorney's Office. I am prosecuted misdemeanor cases for nearly twenty years, specializing in domestic violence cases for a number of those years. My office prosecutes hundreds of violations of protection orders each year, wherein courts have found evidence of sufficient harm to order a defendant/respondent to stay away, but the harassment continues.

Violating Protection Orders is a Sign of Potential Lethality and Deserves Enhancing

- a. Lethality Factor** We know through the work of Drs. Jacqueline Campbell and T.K. Logan and others that violating court orders such as protection orders is a sign of potential lethality. Individuals who violate court orders thwart not only the protected parties but erode the authority of the court and are emboldened by their defiance. This research shows that all violations of protection orders, even "technical" ones, if not addressed swiftly with sure consequences, can pose significant threat to victims and the community. This law would codify the fact that those who have already been convicted of violating court orders and other threatening behavior pose greater risk and should therefore be subject to higher penalties.

- b. Expansion of Felony Violations Similar to Domestic Violence Charges** The level of proposed increase in enhancement is reasonable, given potential lethality, and similar to enhancements in existing domestic violence law. A charge of domestic violence under ORC 2919.25, is generally a 1st degree misdemeanor but becomes a 4th degree felony where the defendant has a prior conviction, and a 3rd degree felony where the defendant has two or more. Senate Bill 28 would increase potential penalties for a defendant with prior convictions for violations of protection orders similarly.

Full Faith and Credit

In addition to protection orders from Ohio, SB 28 would render valid protection orders of other states enforceable. This provision honors the Full Faith and Credit provisions of the Violence Against Women Act of 1994 (18 W.S.C. § 2265-66), which provides that valid orders of protection (both criminal and civil) must be enforced for the protected parties wherever a violation occurs nationwide, regardless of where the order was issued. It makes sense to enforce out of state protection orders at the same level as our Ohio protection orders.

Stalkers Who Violate Protection Orders are Lethal

Another proposed change SB 28 proposes is to allow enhancement of a violation of protection order if a defendant has been convicted of menacing by stalking, regardless of the target of that stalking. Enhancing Stalking convictions should not take more than one prior conviction and should not be limited to the same partner. In my experience, stalking convictions are rare and difficult to achieve due to the fact that the crime requires proof of a series of acts. In most cases, stalking behavior is charged piecemeal, perhaps as an assault, telecommunications harassment, or violation of protection order, instead of taken together as a stalking.

Current law requires two convictions with the same victim. Like those who violate court orders, stalking is a sign of potential lethality. Dr. Logan's work with protection orders shows that stalkers in particular are most likely to violate, as well as to harm their victims when violating. Just because a stalker has moved on to a new victim does not make them less dangerous. Rather, they may be honing their skills on a new target.

Senate Bill 28 does not address the number of protection orders granted or the procedure for how they are granted. Rather, the provisions in this bill are triggered only after a court has found a defendant has been previously convicted of violating a court order, or stalking, or threatening behavior that render the current violation of a court order that much more dangerous.

Under Senate Bill 28 the prosecution still must prove beyond a reasonable doubt that the offender committed the violation the protection order as charged. This law would raise the level of subsequent violations in recognition of the danger such behavior poses to all of us,

In conclusion, I strongly urge this Committee to consider these matters when reviewing the proposed amendments proposed by SB 28.

Thank you for the opportunity to provide testimony and I welcome any questions you may have.

-Melanie Tobias