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Sub. S. B. No. 210

Senator Gavarone

**Cosponsors: Senators Manning, Antonio, Blessing, Cirino, Hackett, Johnson,
Maharath, McColley, Reineke, Schuring, Williams, Yuko**

A BILL

To amend sections 2106.22, 3103.05, 3103.06, 1
3105.17, 3105.171, 3113.31, and 3113.33; to 2
enact section 3103.061; and to repeal section 3
3105.72 of the Revised Code regarding agreements 4
affecting legal relations between spouses; 5
domestic violence protection orders in a dating 6
relationship; and courts maintaining Social 7
Security numbers of parties in divorce, 8
dissolution, annulment, or spousal support 9
proceedings. 10

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

Section 1. That sections 2106.22, 3103.05, 3103.06, 11
3105.17, 3105.171, 3113.31, and 3113.33 be amended and section 12
3103.061 of the Revised Code be enacted to read as follows: 13

Sec. 2106.22. Any antenuptial, postnuptial, or separation 14
agreement to which a decedent was a party is valid unless an 15
action to set it aside is commenced within four months after the 16
appointment of the executor or administrator of the estate of 17
the decedent, or unless, within the four-month period, the 18

validity of the agreement otherwise is attacked. 19

Sec. 3103.05. (A) A husband or wife may enter into any 20
engagement agreement or transaction with the either of the 21
following: 22

(1) The other spouse, or with any subject to the general 23
rules that control the actions of persons occupying the 24
confidential relations with each other; 25

(2) With any other person, which either might if 26
unmarried; subject, in transactions between themselves, to the 27
general rules which control the actions of persons occupying 28
confidential relations with each other. 29

(B) An agreement under division (A) (1) of this section 30
that alters the legal relations between the spouses shall comply 31
with section 3103.061 of the Revised Code. 32

Sec. 3103.06. (A) A husband and wife cannot may, by any 33
contract with each other, alter do any of the following: 34

(1) Enter into a postnuptial agreement that alters their 35
legal relations, except that they may agree with each other; 36

(2) Modify or terminate an antenuptial or postnuptial 37
agreement or any other agreement that alters their legal 38
relations with each other; 39

(3) Agree to an immediate separation and make provisions 40
for the division of property and support of either of them and 41
their children during the separation. 42

(B) An agreement under division (A) (1) or (2) of this 43
section shall comply with section 3103.061 of the Revised Code. 44

Sec. 3103.061. Any agreement altering legal relations 45

between spouses established under division (A) (1) of section 3103.05 or division (A) (1) or (2) of section 3103.06 of the Revised Code shall be valid and enforceable, with or without consideration, if all of the following apply: 46
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(A) The agreement is in writing and signed by both spouses; 50
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(B) The agreement is entered into freely without fraud, duress, coercion, or overreaching; 52
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(C) There was full disclosure, or full knowledge, and understanding of the nature, value, and extent of the property of both spouses; 54
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(D) The terms do not promote or encourage divorce or profiteering by divorce. 57
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Sec. 3105.17. (A) Either party to the marriage may file a complaint for divorce or for legal separation, and when filed the other may file a counterclaim for divorce or for legal separation. The court of common pleas may grant divorces for the causes set forth in section 3105.01 of the Revised Code. The court of common pleas may grant legal separation on a complaint or counterclaim, regardless of whether the parties are living separately at the time the complaint or counterclaim is filed, for the following causes: 59
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(1) Either party had a husband or wife living at the time of the marriage from which legal separation is sought; 68
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(2) Willful absence of the adverse party for one year; 70

(3) Adultery; 71

(4) Extreme cruelty; 72

(5) Fraudulent contract;	73
(6) Any gross neglect of duty;	74
(7) Habitual drunkenness;	75
(8) Imprisonment of the adverse party in a state or federal correctional institution at the time of filing the complaint;	76 77 78
(9) On the application of either party, when husband and wife have, without interruption for one year, lived separate and apart without cohabitation;	79 80 81
(10) Incompatibility, unless denied by either party.	82
(B) The filing of a complaint or counterclaim for legal separation or the granting of a decree of legal separation under this section does not bar either party from filing a complaint or counterclaim for a divorce or annulment or obtaining a divorce or annulment.	83 84 85 86 87
<u>(C) A decree of legal separation may be terminated by the court upon a motion signed by both spouses.</u>	88 89
Sec. 3105.171. (A) As used in this section:	90
(1) "Distributive award" means any payment or payments, in real or personal property, that are payable in a lump sum or over time, in fixed amounts, that are made from separate property or income, and that are not made from marital property and do not constitute payments of spousal support, as defined in section 3105.18 of the Revised Code.	91 92 93 94 95 96
(2) "During the marriage" means whichever of the following is applicable:	97 98
(a) Except as provided in division (A) (2) (b) of this	99

section, the period of time from the date of the marriage 100
through the date of the final hearing in an action for divorce 101
or in an action for legal separation; 102

(b) If the court determines that the use of either or both 103
of the dates specified in division (A) (2) (a) of this section 104
would be inequitable, the court may select dates that it 105
considers equitable in determining marital property. If the 106
court selects dates that it considers equitable in determining 107
marital property, "during the marriage" means the period of time 108
between those dates selected and specified by the court. 109

(3) (a) "Marital property" means, subject to division (A) 110
(3) (b) of this section, all of the following: 111

(i) All real and personal property that currently is owned 112
by either or both of the spouses, including, but not limited to, 113
the retirement benefits of the spouses, and that was acquired by 114
either or both of the spouses during the marriage; 115

(ii) All interest that either or both of the spouses 116
currently has in any real or personal property, including, but 117
not limited to, the retirement benefits of the spouses, and that 118
was acquired by either or both of the spouses during the 119
marriage; 120

(iii) Except as otherwise provided in this section, all 121
income and appreciation on separate property, due to the labor, 122
monetary, or in-kind contribution of either or both of the 123
spouses that occurred during the marriage; 124

(iv) A participant account, as defined in section 148.01 125
of the Revised Code, of either of the spouses, to the extent of 126
the following: the moneys that have been deferred by a 127
continuing member or participating employee, as defined in that 128

section, and that have been transmitted to the Ohio public 129
employees deferred compensation board during the marriage and 130
any income that is derived from the investment of those moneys 131
during the marriage; the moneys that have been deferred by an 132
officer or employee of a municipal corporation and that have 133
been transmitted to the governing board, administrator, 134
depository, or trustee of the deferred compensation program of 135
the municipal corporation during the marriage and any income 136
that is derived from the investment of those moneys during the 137
marriage; or the moneys that have been deferred by an officer or 138
employee of a government unit, as defined in section 148.06 of 139
the Revised Code, and that have been transmitted to the 140
governing board, as defined in that section, during the marriage 141
and any income that is derived from the investment of those 142
moneys during the marriage. 143

(b) "Marital property" does not include any separate 144
property. 145

(4) "Passive income" means income acquired other than as a 146
result of the labor, monetary, or in-kind contribution of either 147
spouse. 148

(5) "Personal property" includes both tangible and 149
intangible personal property. 150

(6) (a) "Separate property" means all real and personal 151
property and any interest in real or personal property that is 152
found by the court to be any of the following: 153

(i) An inheritance by one spouse by bequest, devise, or 154
descent during the course of the marriage; 155

(ii) Any real or personal property or interest in real or 156
personal property that was acquired by one spouse prior to the 157

date of the marriage;	158
(iii) Passive income and appreciation acquired from separate property by one spouse during the marriage;	159 160
(iv) Any real or personal property or interest in real or personal property acquired by one spouse after a decree of legal separation issued under section 3105.17 of the Revised Code;	161 162 163
(v) Any real or personal property or interest in real or personal property that is excluded by a valid antenuptial <u>or</u> <u>postnuptial</u> agreement;	164 165 166
(vi) Compensation to a spouse for the spouse's personal injury, except for loss of marital earnings and compensation for expenses paid from marital assets;	167 168 169
(vii) Any gift of any real or personal property or of an interest in real or personal property that is made after the date of the marriage and that is proven by clear and convincing evidence to have been given to only one spouse.	170 171 172 173
(b) The commingling of separate property with other property of any type does not destroy the identity of the separate property as separate property, except when the separate property is not traceable.	174 175 176 177
(B) In divorce proceedings, the court shall, and in legal separation proceedings upon the request of either spouse, the court may, determine what constitutes marital property and what constitutes separate property. In either case, upon making such a determination, the court shall divide the marital and separate property equitably between the spouses, in accordance with this section. For purposes of this section, the court has jurisdiction over all property, excluding the social security benefits of a spouse other than as set forth in division (F) (9)	178 179 180 181 182 183 184 185 186

of this section, in which one or both spouses have an interest.	187
(C) (1) Except as provided in this division or division (E)	188
of this section, the division of marital property shall be	189
equal. If an equal division of marital property would be	190
inequitable, the court shall not divide the marital property	191
equally but instead shall divide it between the spouses in the	192
manner the court determines equitable. In making a division of	193
marital property, the court shall consider all relevant factors,	194
including those set forth in division (F) of this section.	195
(2) Each spouse shall be considered to have contributed	196
equally to the production and acquisition of marital property.	197
(3) The court shall provide for an equitable division of	198
marital property under this section prior to making any award of	199
spousal support to either spouse under section 3105.18 of the	200
Revised Code and without regard to any spousal support so	201
awarded.	202
(4) If the marital property includes a participant	203
account, as defined in section 148.01 of the Revised Code, the	204
court shall not order the division or disbursement of the moneys	205
and income described in division (A) (3) (a) (iv) of this section	206
to occur in a manner that is inconsistent with the law, rules,	207
or plan governing the deferred compensation program involved or	208
prior to the time that the spouse in whose name the participant	209
account is maintained commences receipt of the moneys and income	210
credited to the account in accordance with that law, rules, and	211
plan.	212
(D) Except as otherwise provided in division (E) of this	213
section or by another provision of this section, the court shall	214
disburse a spouse's separate property to that spouse. If a court	215

does not disburse a spouse's separate property to that spouse, 216
the court shall make written findings of fact that explain the 217
factors that it considered in making its determination that the 218
spouse's separate property should not be disbursed to that 219
spouse. 220

(E) (1) The court may make a distributive award to 221
facilitate, effectuate, or supplement a division of marital 222
property. The court may require any distributive award to be 223
secured by a lien on the payor's specific marital property or 224
separate property. 225

(2) The court may make a distributive award in lieu of a 226
division of marital property in order to achieve equity between 227
the spouses, if the court determines that a division of the 228
marital property in kind or in money would be impractical or 229
burdensome. 230

(3) The court shall require each spouse to disclose in a 231
full and complete manner all marital property, separate 232
property, and other assets, debts, income, and expenses of the 233
spouse. 234

(4) If a spouse has engaged in financial misconduct, 235
including, but not limited to, the dissipation, destruction, 236
concealment, nondisclosure, or fraudulent disposition of assets, 237
the court may compensate the offended spouse with a distributive 238
award or with a greater award of marital property. 239

(5) If a spouse has substantially and willfully failed to 240
disclose marital property, separate property, or other assets, 241
debts, income, or expenses as required under division (E) (3) of 242
this section, the court may compensate the offended spouse with 243
a distributive award or with a greater award of marital property 244

not to exceed three times the value of the marital property, 245
separate property, or other assets, debts, income, or expenses 246
that are not disclosed by the other spouse. 247

(F) In making a division of marital property and in 248
determining whether to make and the amount of any distributive 249
award under this section, the court shall consider all of the 250
following factors: 251

(1) The duration of the marriage; 252

(2) The assets and liabilities of the spouses; 253

(3) The desirability of awarding the family home, or the 254
right to reside in the family home for reasonable periods of 255
time, to the spouse with custody of the children of the 256
marriage; 257

(4) The liquidity of the property to be distributed; 258

(5) The economic desirability of retaining intact an asset 259
or an interest in an asset; 260

(6) The tax consequences of the property division upon the 261
respective awards to be made to each spouse; 262

(7) The costs of sale, if it is necessary that an asset be 263
sold to effectuate an equitable distribution of property; 264

(8) Any division or disbursement of property made in a 265
separation agreement that was voluntarily entered into by the 266
spouses; 267

(9) Any retirement benefits of the spouses, excluding the 268
social security benefits of a spouse except as may be relevant 269
for purposes of dividing a public pension; 270

(10) Any other factor that the court expressly finds to be 271

relevant and equitable.	272
(G) In any order for the division or disbursement of property or a distributive award made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property has been equitably divided and shall specify the dates it used in determining the meaning of "during the marriage."	273 274 275 276 277 278
(H) Except as otherwise provided in this section, the holding of title to property by one spouse individually or by both spouses in a form of co-ownership does not determine whether the property is marital property or separate property.	279 280 281 282
(I) A division or disbursement of property or a distributive award made under this section is not subject to future modification by the court except upon the express written consent or agreement to the modification by both spouses.	283 284 285 286
(J) The court may issue any orders under this section that it determines equitable, including, but not limited to, either of the following types of orders:	287 288 289
(1) An order granting a spouse the right to use the marital dwelling or any other marital property or separate property for any reasonable period of time;	290 291 292
(2) An order requiring the sale or encumbering of any real or personal property, with the proceeds from the sale and the funds from any loan secured by the encumbrance to be applied as determined by the court.	293 294 295 296
Sec. 3113.31. (A) As used in this section:	297
(1) "Domestic violence" means any of the following:	298
(a) The occurrence of one or more of the following acts	299

against a family or household member:	300
(i) Attempting to cause or recklessly causing bodily injury;	301 302
(ii) Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code;	303 304 305
(iii) Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code;	306 307 308
(iv) Committing a sexually oriented offense.	309
(b) The occurrence of one or more of the acts identified in divisions (A) (1) (a) (i) to (iv) of this section against a person with whom the respondent is or was in a dating relationship.	310 311 312 313
(2) "Court" means the domestic relations division of the court of common pleas in counties that have a domestic relations division and the court of common pleas in counties that do not have a domestic relations division, or the juvenile division of the court of common pleas of the county in which the person to be protected by a protection order issued or a consent agreement approved under this section resides if the respondent is less than eighteen years of age.	314 315 316 317 318 319 320 321
(3) "Family or household member" means any of the following:	322 323
(a) Any of the following who is residing with or has resided with the respondent:	324 325
(i) A spouse, a person living as a spouse, or a former spouse of the respondent;	326 327

(ii) A parent, a foster parent, or a child of the	328
respondent, or another person related by consanguinity or	329
affinity to the respondent;	330
(iii) A parent or a child of a spouse, person living as a	331
spouse, or former spouse of the respondent, or another person	332
related by consanguinity or affinity to a spouse, person living	333
as a spouse, or former spouse of the respondent.	334
(b) The natural parent of any child of whom the respondent	335
is the other natural parent or is the putative other natural	336
parent.	337
(4) "Person living as a spouse" means a person who is	338
living or has lived with the respondent in a common law marital	339
relationship, who otherwise is cohabiting with the respondent,	340
or who otherwise has cohabited with the respondent within five	341
years prior to the date of the alleged occurrence of the act in	342
question.	343
(5) "Victim advocate" means a person who provides support	344
and assistance for a person who files a petition under this	345
section.	346
(6) "Sexually oriented offense" has the same meaning as in	347
section 2950.01 of the Revised Code.	348
(7) "Companion animal" has the same meaning as in section	349
959.131 of the Revised Code.	350
(8) "Dating relationship" means a relationship between	351
individuals who have, or have had, a relationship of a romantic	352
or intimate nature. "Dating relationship" does not include a	353
casual acquaintanceship or ordinary fraternization in a business	354
or social context.	355

(9) "Person with whom the respondent is or was in a dating relationship" means an ~~adult~~ individual who, at the time of the conduct in question, is in a dating relationship with the respondent who ~~also~~ is an adult or who, within the twelve months preceding the conduct in question, has had a dating relationship with the respondent who ~~also~~ is an adult.

(B) The court has jurisdiction over all proceedings under this section. The petitioner's right to relief under this section is not affected by the petitioner's leaving the residence or household to avoid further domestic violence.

(C) A person may seek relief under this section on the person's own behalf, or any parent or adult household member may seek relief under this section on behalf of any other family or household member, by filing a petition with the court. The petition shall contain or state:

(1) An allegation that the respondent engaged in domestic violence against a family or household member of the respondent or against a person with whom the respondent is or was in a dating relationship, including a description of the nature and extent of the domestic violence;

(2) The relationship of the respondent to the petitioner, and to the victim if other than the petitioner;

(3) If the petition is for protection of a person with whom the respondent is or was in a dating relationship, the facts upon which the court may conclude that a dating relationship existed between the person to be protected and the respondent;

(4) A request for relief under this section.

(D) (1) If a person who files a petition pursuant to this

section requests an ex parte order, the court shall hold an ex 385
parte hearing on the same day that the petition is filed. The 386
court, for good cause shown at the ex parte hearing, may enter 387
any temporary orders, with or without bond, including, but not 388
limited to, an order described in division (E)(1)(a), (b), or 389
(c) of this section, that the court finds necessary to protect 390
the family or household member or the person with whom the 391
respondent is or was in a dating relationship from domestic 392
violence. Immediate and present danger of domestic violence to 393
the family or household member or to the person with whom the 394
respondent is or was in a dating relationship constitutes good 395
cause for purposes of this section. Immediate and present danger 396
includes, but is not limited to, situations in which the 397
respondent has threatened the family or household member or 398
person with whom the respondent is or was in a dating 399
relationship with bodily harm, in which the respondent has 400
threatened the family or household member or person with whom 401
the respondent is or was in a dating relationship with a 402
sexually oriented offense, or in which the respondent previously 403
has been convicted of, pleaded guilty to, or been adjudicated a 404
delinquent child for an offense that constitutes domestic 405
violence against the family or household member or person with 406
whom the respondent is or was in a dating relationship. 407

(2) (a) If the court, after an ex parte hearing, issues an 408
order described in division (E)(1)(b) or (c) of this section, 409
the court shall schedule a full hearing for a date that is 410
within seven court days after the ex parte hearing. If any other 411
type of protection order that is authorized under division (E) 412
of this section is issued by the court after an ex parte 413
hearing, the court shall schedule a full hearing for a date that 414
is within ten court days after the ex parte hearing. The court 415

shall give the respondent notice of, and an opportunity to be 416
heard at, the full hearing. The court shall hold the full 417
hearing on the date scheduled under this division unless the 418
court grants a continuance of the hearing in accordance with 419
this division. Under any of the following circumstances or for 420
any of the following reasons, the court may grant a continuance 421
of the full hearing to a reasonable time determined by the 422
court: 423

(i) Prior to the date scheduled for the full hearing under 424
this division, the respondent has not been served with the 425
petition filed pursuant to this section and notice of the full 426
hearing. 427

(ii) The parties consent to the continuance. 428

(iii) The continuance is needed to allow a party to obtain 429
counsel. 430

(iv) The continuance is needed for other good cause. 431

(b) An ex parte order issued under this section does not 432
expire because of a failure to serve notice of the full hearing 433
upon the respondent before the date set for the full hearing 434
under division (D) (2) (a) of this section or because the court 435
grants a continuance under that division. 436

(3) If a person who files a petition pursuant to this 437
section does not request an ex parte order, or if a person 438
requests an ex parte order but the court does not issue an ex 439
parte order after an ex parte hearing, the court shall proceed 440
as in a normal civil action and grant a full hearing on the 441
matter. 442

(E) (1) After an ex parte or full hearing, the court may 443
grant any protection order, with or without bond, or approve any 444

consent agreement to bring about a cessation of domestic 445
violence against the family or household members or persons with 446
whom the respondent is or was in a dating relationship. The 447
order or agreement may: 448

(a) Direct the respondent to refrain from abusing or from 449
committing sexually oriented offenses against the family or 450
household members or persons with whom the respondent is or was 451
in a dating relationship; 452

(b) With respect to a petition involving family or 453
household members, grant possession of the residence or 454
household to the petitioner or other family or household member, 455
to the exclusion of the respondent, by evicting the respondent, 456
when the residence or household is owned or leased solely by the 457
petitioner or other family or household member, or by ordering 458
the respondent to vacate the premises, when the residence or 459
household is jointly owned or leased by the respondent, and the 460
petitioner or other family or household member; 461

(c) With respect to a petition involving family or 462
household members, when the respondent has a duty to support the 463
petitioner or other family or household member living in the 464
residence or household and the respondent is the sole owner or 465
lessee of the residence or household, grant possession of the 466
residence or household to the petitioner or other family or 467
household member, to the exclusion of the respondent, by 468
ordering the respondent to vacate the premises, or, in the case 469
of a consent agreement, allow the respondent to provide 470
suitable, alternative housing; 471

(d) With respect to a petition involving family or 472
household members, temporarily allocate parental rights and 473
responsibilities for the care of, or establish temporary 474

parenting time rights with regard to, minor children, if no 475
other court has determined, or is determining, the allocation of 476
parental rights and responsibilities for the minor children or 477
parenting time rights; 478

(e) With respect to a petition involving family or 479
household members, require the respondent to maintain support, 480
if the respondent customarily provides for or contributes to the 481
support of the family or household member, or if the respondent 482
has a duty to support the petitioner or family or household 483
member; 484

(f) Require the respondent, petitioner, victim of domestic 485
violence, or any combination of those persons, to seek 486
counseling; 487

(g) Require the respondent to refrain from entering the 488
residence, school, business, or place of employment of the 489
petitioner or, with respect to a petition involving family or 490
household members, a family or household member; 491

(h) Grant other relief that the court considers equitable 492
and fair, including, but not limited to, ordering the respondent 493
to permit the use of a motor vehicle by the petitioner or, with 494
respect to a petition involving family or household members, 495
other family or household members and the apportionment of 496
household and family personal property; 497

(i) Require that the respondent not remove, damage, hide, 498
harm, or dispose of any companion animal owned or possessed by 499
the petitioner; 500

(j) Authorize the petitioner to remove a companion animal 501
owned by the petitioner from the possession of the respondent; 502

(k) Require a wireless service transfer in accordance with 503

sections 3113.45 to 3113.459 of the Revised Code. 504

(2) If a protection order has been issued pursuant to this 505
section in a prior action involving the respondent and the 506
petitioner or, with respect to a petition involving family or 507
household members, one or more of the family or household 508
members or victims, the court may include in a protection order 509
that it issues a prohibition against the respondent returning to 510
the residence or household. If it includes a prohibition against 511
the respondent returning to the residence or household in the 512
order, it also shall include in the order provisions of the type 513
described in division (E) (7) of this section. This division does 514
not preclude the court from including in a protection order or 515
consent agreement, in circumstances other than those described 516
in this division, a requirement that the respondent be evicted 517
from or vacate the residence or household or refrain from 518
entering the residence, school, business, or place of employment 519
of the petitioner or, with respect to a petition involving 520
family or household members, a family or household member, and, 521
if the court includes any requirement of that type in an order 522
or agreement, the court also shall include in the order 523
provisions of the type described in division (E) (7) of this 524
section. 525

(3) (a) Any protection order issued or consent agreement 526
approved under this section shall be valid until a date certain, 527
but not later than five years from the date of its issuance or 528
approval, or not later than the date a respondent who is less 529
than eighteen years of age attains nineteen years of age, unless 530
modified or terminated as provided in division (E) (8) of this 531
section. 532

(b) With respect to an order involving family or household 533

members, subject to the limitation on the duration of an order 534
or agreement set forth in division (E) (3) (a) of this section, 535
any order under division (E) (1) (d) of this section shall 536
terminate on the date that a court in an action for divorce, 537
dissolution of marriage, or legal separation brought by the 538
petitioner or respondent issues an order allocating parental 539
rights and responsibilities for the care of children or on the 540
date that a juvenile court in an action brought by the 541
petitioner or respondent issues an order awarding legal custody 542
of minor children. Subject to the limitation on the duration of 543
an order or agreement set forth in division (E) (3) (a) of this 544
section, any order under division (E) (1) (e) of this section 545
shall terminate on the date that a court in an action for 546
divorce, dissolution of marriage, or legal separation brought by 547
the petitioner or respondent issues a support order or on the 548
date that a juvenile court in an action brought by the 549
petitioner or respondent issues a support order. 550

(c) Any protection order issued or consent agreement 551
approved pursuant to this section may be renewed in the same 552
manner as the original order or agreement was issued or 553
approved. 554

(4) A court may not issue a protection order that requires 555
a petitioner to do or to refrain from doing an act that the 556
court may require a respondent to do or to refrain from doing 557
under division (E) (1) (a), (b), (c), (d), (e), (g), or (h) of 558
this section unless all of the following apply: 559

(a) The respondent files a separate petition for a 560
protection order in accordance with this section. 561

(b) The petitioner is served notice of the respondent's 562
petition at least forty-eight hours before the court holds a 563

hearing with respect to the respondent's petition, or the 564
petitioner waives the right to receive this notice. 565

(c) If the petitioner has requested an ex parte order 566
pursuant to division (D) of this section, the court does not 567
delay any hearing required by that division beyond the time 568
specified in that division in order to consolidate the hearing 569
with a hearing on the petition filed by the respondent. 570

(d) After a full hearing at which the respondent presents 571
evidence in support of the request for a protection order and 572
the petitioner is afforded an opportunity to defend against that 573
evidence, the court determines that the petitioner has committed 574
an act of domestic violence or has violated a temporary 575
protection order issued pursuant to section 2919.26 of the 576
Revised Code, that both the petitioner and the respondent acted 577
primarily as aggressors, and that neither the petitioner nor the 578
respondent acted primarily in self-defense. 579

(5) No protection order issued or consent agreement 580
approved under this section shall in any manner affect title to 581
any real property. 582

(6) (a) With respect to an order involving family or 583
household members, if a petitioner, or the child of a 584
petitioner, who obtains a protection order or consent agreement 585
pursuant to division (E) (1) of this section or a temporary 586
protection order pursuant to section 2919.26 of the Revised Code 587
and is the subject of a parenting time order issued pursuant to 588
section 3109.051 or 3109.12 of the Revised Code or a visitation 589
or companionship order issued pursuant to section 3109.051, 590
3109.11, or 3109.12 of the Revised Code or division (E) (1) (d) of 591
this section granting parenting time rights to the respondent, 592
the court may require the public children services agency of the 593

county in which the court is located to provide supervision of 594
the respondent's exercise of parenting time or visitation or 595
companionship rights with respect to the child for a period not 596
to exceed nine months, if the court makes the following findings 597
of fact: 598

(i) The child is in danger from the respondent; 599

(ii) No other person or agency is available to provide the 600
supervision. 601

(b) A court that requires an agency to provide supervision 602
pursuant to division (E) (6) (a) of this section shall order the 603
respondent to reimburse the agency for the cost of providing the 604
supervision, if it determines that the respondent has sufficient 605
income or resources to pay that cost. 606

(7) (a) If a protection order issued or consent agreement 607
approved under this section includes a requirement that the 608
respondent be evicted from or vacate the residence or household 609
or refrain from entering the residence, school, business, or 610
place of employment of the petitioner or, with respect to a 611
petition involving family or household members, a family or 612
household member, the order or agreement shall state clearly 613
that the order or agreement cannot be waived or nullified by an 614
invitation to the respondent from the petitioner or other family 615
or household member to enter the residence, school, business, or 616
place of employment or by the respondent's entry into one of 617
those places otherwise upon the consent of the petitioner or 618
other family or household member. 619

(b) Division (E) (7) (a) of this section does not limit any 620
discretion of a court to determine that a respondent charged 621
with a violation of section 2919.27 of the Revised Code, with a 622

violation of a municipal ordinance substantially equivalent to 623
that section, or with contempt of court, which charge is based 624
on an alleged violation of a protection order issued or consent 625
agreement approved under this section, did not commit the 626
violation or was not in contempt of court. 627

(8) (a) The court may modify or terminate as provided in 628
division (E) (8) of this section a protection order or consent 629
agreement that was issued after a full hearing under this 630
section. The court that issued the protection order or approved 631
the consent agreement shall hear a motion for modification or 632
termination of the protection order or consent agreement 633
pursuant to division (E) (8) of this section. 634

(b) Either the petitioner or the respondent of the 635
original protection order or consent agreement may bring a 636
motion for modification or termination of a protection order or 637
consent agreement that was issued or approved after a full 638
hearing. The court shall require notice of the motion to be made 639
as provided by the Rules of Civil Procedure. If the petitioner 640
for the original protection order or consent agreement has 641
requested that the petitioner's address be kept confidential, 642
the court shall not disclose the address to the respondent of 643
the original protection order or consent agreement or any other 644
person, except as otherwise required by law. The moving party 645
has the burden of proof to show, by a preponderance of the 646
evidence, that modification or termination of the protection 647
order or consent agreement is appropriate because either the 648
protection order or consent agreement is no longer needed or 649
because the terms of the original protection order or consent 650
agreement are no longer appropriate. 651

(c) In considering whether to modify or terminate a 652

protection order or consent agreement issued or approved under 653
this section, the court shall consider all relevant factors, 654
including, but not limited to, the following: 655

(i) Whether the petitioner consents to modification or 656
termination of the protection order or consent agreement; 657

(ii) Whether the petitioner fears the respondent; 658

(iii) The current nature of the relationship between the 659
petitioner and the respondent; 660

(iv) The circumstances of the petitioner and respondent, 661
including the relative proximity of the petitioner's and 662
respondent's workplaces and residences and whether the 663
petitioner and respondent have minor children together; 664

(v) Whether the respondent has complied with the terms and 665
conditions of the original protection order or consent 666
agreement; 667

(vi) Whether the respondent has a continuing involvement 668
with illegal drugs or alcohol; 669

(vii) Whether the respondent has been convicted of, 670
pleaded guilty to, or been adjudicated a delinquent child for an 671
offense of violence since the issuance of the protection order 672
or approval of the consent agreement; 673

(viii) Whether any other protection orders, consent 674
agreements, restraining orders, or no contact orders have been 675
issued against the respondent pursuant to this section, section 676
2919.26 of the Revised Code, any other provision of state law, 677
or the law of any other state; 678

(ix) Whether the respondent has participated in any 679
domestic violence treatment, intervention program, or other 680

counseling addressing domestic violence and whether the 681
respondent has completed the treatment, program, or counseling; 682

(x) The time that has elapsed since the protection order 683
was issued or since the consent agreement was approved; 684

(xi) The age and health of the respondent; 685

(xii) When the last incident of abuse, threat of harm, or 686
commission of a sexually oriented offense occurred or other 687
relevant information concerning the safety and protection of the 688
petitioner or other protected parties. 689

(d) If a protection order or consent agreement is modified 690
or terminated as provided in division (E)(8) of this section, 691
the court shall issue copies of the modified or terminated order 692
or agreement as provided in division (F) of this section. A 693
petitioner may also provide notice of the modification or 694
termination to the judicial and law enforcement officials in any 695
county other than the county in which the order or agreement is 696
modified or terminated as provided in division (N) of this 697
section. 698

(e) If the respondent moves for modification or 699
termination of a protection order or consent agreement pursuant 700
to this section and the court denies the motion, the court may 701
assess costs against the respondent for the filing of the 702
motion. 703

(9) Any protection order issued or any consent agreement 704
approved pursuant to this section shall include a provision that 705
the court will automatically seal all of the records of the 706
proceeding in which the order is issued or agreement approved on 707
the date the respondent attains the age of nineteen years unless 708
the petitioner provides the court with evidence that the 709

respondent has not complied with all of the terms of the 710
protection order or consent agreement. The protection order or 711
consent agreement shall specify the date when the respondent 712
attains the age of nineteen years. 713

(F) (1) A copy of any protection order, or consent 714
agreement, that is issued, approved, modified, or terminated 715
under this section shall be issued by the court to the 716
petitioner, to the respondent, and to all law enforcement 717
agencies that have jurisdiction to enforce the order or 718
agreement. The court shall direct that a copy of an order be 719
delivered to the respondent on the same day that the order is 720
entered. 721

(2) Upon the issuance of a protection order or the 722
approval of a consent agreement under this section, the court 723
shall provide the parties to the order or agreement with the 724
following notice orally or by form: 725

"NOTICE 726

As a result of this order or consent agreement, it may be 727
unlawful for you to possess or purchase a firearm, including a 728
rifle, pistol, or revolver, or ammunition pursuant to federal 729
law under 18 U.S.C. 922(g) (8) for the duration of this order or 730
consent agreement. If you have any questions whether this law 731
makes it illegal for you to possess or purchase a firearm or 732
ammunition, you should consult an attorney." 733

(3) All law enforcement agencies shall establish and 734
maintain an index for the protection orders and the approved 735
consent agreements delivered to the agencies pursuant to 736
division (F) (1) of this section. With respect to each order and 737
consent agreement delivered, each agency shall note on the index 738

the date and time that it received the order or consent 739
agreement. 740

(4) Regardless of whether the petitioner has registered 741
the order or agreement in the county in which the officer's 742
agency has jurisdiction pursuant to division (N) of this 743
section, any officer of a law enforcement agency shall enforce a 744
protection order issued or consent agreement approved by any 745
court in this state in accordance with the provisions of the 746
order or agreement, including removing the respondent from the 747
premises, if appropriate. 748

(G) (1) Any proceeding under this section shall be 749
conducted in accordance with the Rules of Civil Procedure, 750
except that an order under this section may be obtained with or 751
without bond. An order issued under this section, other than an 752
ex parte order, that grants a protection order or approves a 753
consent agreement, that refuses to grant a protection order or 754
approve a consent agreement that modifies or terminates a 755
protection order or consent agreement, or that refuses to modify 756
or terminate a protection order or consent agreement, is a 757
final, appealable order. The remedies and procedures provided in 758
this section are in addition to, and not in lieu of, any other 759
available civil or criminal remedies. 760

(2) If as provided in division (G) (1) of this section an 761
order issued under this section, other than an ex parte order, 762
refuses to grant a protection order, the court, on its own 763
motion, shall order that the ex parte order issued under this 764
section and all of the records pertaining to that ex parte order 765
be sealed after either of the following occurs: 766

(a) No party has exercised the right to appeal pursuant to 767
Rule 4 of the Rules of Appellate Procedure. 768

(b) All appellate rights have been exhausted.	769
(H) The filing of proceedings under this section does not excuse a person from filing any report or giving any notice required by section 2151.421 of the Revised Code or by any other law. When a petition under this section alleges domestic violence against minor children, the court shall report the fact, or cause reports to be made, to a county, township, or municipal peace officer under section 2151.421 of the Revised Code.	770 771 772 773 774 775 776 777
(I) Any law enforcement agency that investigates a domestic dispute shall provide information to the family or household members involved, or the persons in the dating relationship who are involved, whichever is applicable regarding the relief available under this section and, for family or household members, section 2919.26 of the Revised Code.	778 779 780 781 782 783
(J) (1) Subject to divisions (E) (8) (e) and (J) (2) of this section and regardless of whether a protection order is issued or a consent agreement is approved by a court of another county or a court of another state, no court or unit of state or local government shall charge the petitioner any fee, cost, deposit, or money in connection with the filing of a petition pursuant to this section or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order, consent agreement, or witness subpoena or for obtaining a certified copy of a protection order or consent agreement.	784 785 786 787 788 789 790 791 792 793 794
(2) Regardless of whether a protection order is issued or a consent agreement is approved pursuant to this section, the court may assess costs against the respondent in connection with the filing, issuance, registration, modification, enforcement,	795 796 797 798

dismissal, withdrawal, or service of a protection order, consent 799
agreement, or witness subpoena or for obtaining a certified copy 800
of a protection order or consent agreement. 801

(K) (1) The court shall comply with Chapters 3119., 3121., 802
3123., and 3125. of the Revised Code when it makes or modifies 803
an order for child support under this section. 804

(2) If any person required to pay child support under an 805
order made under this section on or after April 15, 1985, or 806
modified under this section on or after December 31, 1986, is 807
found in contempt of court for failure to make support payments 808
under the order, the court that makes the finding, in addition 809
to any other penalty or remedy imposed, shall assess all court 810
costs arising out of the contempt proceeding against the person 811
and require the person to pay any reasonable attorney's fees of 812
any adverse party, as determined by the court, that arose in 813
relation to the act of contempt. 814

(L) (1) A person who violates a protection order issued or 815
a consent agreement approved under this section is subject to 816
the following sanctions: 817

(a) Criminal prosecution or a delinquent child proceeding 818
for a violation of section 2919.27 of the Revised Code, if the 819
violation of the protection order or consent agreement 820
constitutes a violation of that section; 821

(b) Punishment for contempt of court. 822

(2) The punishment of a person for contempt of court for 823
violation of a protection order issued or a consent agreement 824
approved under this section does not bar criminal prosecution of 825
the person or a delinquent child proceeding concerning the 826
person for a violation of section 2919.27 of the Revised Code. 827

However, a person punished for contempt of court is entitled to 828
credit for the punishment imposed upon conviction of or 829
adjudication as a delinquent child for a violation of that 830
section, and a person convicted of or adjudicated a delinquent 831
child for a violation of that section shall not subsequently be 832
punished for contempt of court arising out of the same activity. 833

(M) In all stages of a proceeding under this section, a 834
petitioner may be accompanied by a victim advocate. 835

(N) (1) A petitioner who obtains a protection order or 836
consent agreement under this section or a temporary protection 837
order under section 2919.26 of the Revised Code may provide 838
notice of the issuance or approval of the order or agreement to 839
the judicial and law enforcement officials in any county other 840
than the county in which the order is issued or the agreement is 841
approved by registering that order or agreement in the other 842
county pursuant to division (N) (2) of this section and filing a 843
copy of the registered order or registered agreement with a law 844
enforcement agency in the other county in accordance with that 845
division. A person who obtains a protection order issued by a 846
court of another state may provide notice of the issuance of the 847
order to the judicial and law enforcement officials in any 848
county of this state by registering the order in that county 849
pursuant to section 2919.272 of the Revised Code and filing a 850
copy of the registered order with a law enforcement agency in 851
that county. 852

(2) A petitioner may register a temporary protection 853
order, protection order, or consent agreement in a county other 854
than the county in which the court that issued the order or 855
approved the agreement is located in the following manner: 856

(a) The petitioner shall obtain a certified copy of the 857

order or agreement from the clerk of the court that issued the 858
order or approved the agreement and present that certified copy 859
to the clerk of the court of common pleas or the clerk of a 860
municipal court or county court in the county in which the order 861
or agreement is to be registered. 862

(b) Upon accepting the certified copy of the order or 863
agreement for registration, the clerk of the court of common 864
pleas, municipal court, or county court shall place an 865
endorsement of registration on the order or agreement and give 866
the petitioner a copy of the order or agreement that bears that 867
proof of registration. 868

(3) The clerk of each court of common pleas, the clerk of 869
each municipal court, and the clerk of each county court shall 870
maintain a registry of certified copies of temporary protection 871
orders, protection orders, or consent agreements that have been 872
issued or approved by courts in other counties and that have 873
been registered with the clerk. 874

(O) Nothing in this section prohibits the domestic 875
relations division of a court of common pleas in counties that 876
have a domestic relations division or a court of common pleas in 877
counties that do not have a domestic relations division from 878
designating a minor child as a protected party on a protection 879
order or consent agreement. 880

Sec. 3113.33. As used in sections 3113.33 to 3113.40 of 881
the Revised Code: 882

(A) "Domestic violence" means any of the following: 883

(1) Attempting to cause or causing bodily injury to a 884
family or household member, or placing a family or household 885
member by threat of force in fear of imminent physical harm; 886

(2) Attempting to cause or causing bodily injury to a 887
person with whom the actor is or was in a dating relationship, 888
or placing a person with whom the actor is or was in a dating 889
relationship by threat of force in fear of imminent physical 890
harm. 891

(B) "Family or household member" means any of the 892
following: 893

(1) Any of the following who is residing or has resided 894
with the person committing the domestic violence: 895

(a) A spouse, a person living as a spouse, or a former 896
spouse of the person committing the domestic violence; 897

(b) A parent, foster parent, or child of the person 898
committing the domestic violence, or another person related by 899
consanguinity or affinity to the person committing the domestic 900
violence; 901

(c) A parent or a child of a spouse, person living as a 902
spouse, or former spouse of the person committing the domestic 903
violence, or another person related by consanguinity or affinity 904
to a spouse, person living as a spouse, or former spouse of the 905
person committing the domestic violence; 906

(d) The dependents of any person listed in division (B) (1) 907
(a), (b), or (c) of this section. 908

(2) The natural parent of any child of whom the person 909
committing the domestic violence is the other natural parent or 910
is the putative other natural parent. 911

(C) "Shelter for victims of domestic violence" or 912
"shelter" means a facility that provides temporary residential 913
service or facilities to family or household members who are 914

victims of domestic violence or to persons with whom the actor 915
is or was in a dating relationship who are victims of domestic 916
violence. 917

(D) "Person living as a spouse" means a person who is 918
living or has lived with the person committing the domestic 919
violence in a common law marital relationship, who otherwise is 920
cohabiting with the person committing the domestic violence, or 921
who otherwise has cohabited with the person committing the 922
domestic violence within five years prior to the date of the 923
alleged occurrence of the act in question. 924

(E) "Dating relationship" has the same meaning as in 925
section 3113.31 of the Revised Code. 926

(F) "Person with whom the actor is or was in a dating 927
relationship" means an ~~adult~~ individual who, at the time of the 928
conduct in question, is in a dating relationship with the actor 929
who ~~also~~ is an adult or who, within the twelve months preceding 930
the conduct in question, has had a dating relationship with the 931
actor who ~~also~~ is an adult. 932

(G) "Actor" means a person who attempts to cause or causes 933
bodily injury to another, or places another by threat of force 934
in fear of imminent physical harm. 935

Section 2. That existing sections 2106.22, 3103.05, 936
3103.06, 3105.17, 3105.171, 3113.31, and 3113.33 of the Revised 937
Code are hereby repealed. 938

Section 3. That section 3105.72 of the Revised Code is 939
hereby repealed. 940