

As Reported by the House Judiciary Committee

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Am. S. B. No. 76

Senators Bacon, Manning

Cosponsors: Senators Beagle, Brown, Cafaro, Hughes, Jones, Oelslager, Patton, Seitz, Thomas, LaRose, Obhof, Burke, Coley, Eklund, Faber, Gentile, Hite, Peterson, Sawyer, Schiavoni, Uecker, Widener, Yuko

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.

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:

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

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

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

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

(B) (1) Whoever violates this section is guilty of
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
~~any of the following:~~

(a) A violation of a protection order or consent agreement
issued pursuant to section 2151.34, 2903.213, ~~or~~ 2903.214, 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 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. 77

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

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Code is hereby repealed. 96

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