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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 that 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 if the person had
actual notice of the order or agreement and the
person recklessly violated its terms.

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. 17

(B) (1) Whoever violates this section is guilty of 18
violating a protection order. 19

(2) Except as otherwise provided in division (B) (3) or (4) 20
of this section, violating a protection order is a misdemeanor 21
of the first degree. 22

(3) ~~If~~ Violating a protection order is a felony of the 23
fifth degree if the offender previously has been convicted of, 24
pleaded guilty to, or been adjudicated a delinquent child for 25
any of the following: 26

(a) A violation of a protection order or consent agreement 27
issued pursuant to section 2151.34, 2903.213, ~~or~~ 2903.214, or 28
3113.31 of the Revised Code, ~~two~~; 29

(b) Two or more violations of section 2903.21, 2903.211, 30
2903.22, or 2911.211 of the Revised Code, or any combination of 31
those offenses, that involved the same person who is the subject 32
of the protection order or consent agreement, ~~or one~~; 33

(c) One or more violations of this section, ~~violating a~~ 34
~~protection order is a felony of the fifth degree.~~ 35

(4) If the offender violates a protection order or consent 36
agreement while committing a felony offense, violating a 37
protection order is a felony of the third degree. 38

(5) If the protection order violated by the offender was 39
an order issued pursuant to section 2151.34 or 2903.214 of the 40
Revised Code that required electronic monitoring of the offender 41
pursuant to that section, the court may require in addition to 42
any other sentence imposed upon the offender that the offender 43
be electronically monitored for a period not exceeding five 44

years by a law enforcement agency designated by the court. If 45
the court requires under this division that the offender be 46
electronically monitored, unless the court determines that the 47
offender is indigent, the court shall order that the offender 48
pay the costs of the installation of the electronic monitoring 49
device and the cost of monitoring the electronic monitoring 50
device. If the court determines that the offender is indigent 51
and subject to the maximum amount allowable and the rules 52
promulgated by the attorney general under section 2903.214 of 53
the Revised Code, the costs of the installation of the 54
electronic monitoring device and the cost of monitoring the 55
electronic monitoring device may be paid out of funds from the 56
reparations fund created pursuant to section 2743.191 of the 57
Revised Code. The total amount paid from the reparations fund 58
created pursuant to section 2743.191 of the Revised Code for 59
electronic monitoring under this section and sections 2151.34 60
and 2903.214 of the Revised Code shall not exceed three hundred 61
thousand dollars per year. 62

(C) It is an affirmative defense to a charge under 63
division (A) (3) of this section that the protection order issued 64
by a court of another state does not comply with the 65
requirements specified in 18 U.S.C. 2265(b) for a protection 66
order that must be accorded full faith and credit by a court of 67
this state or that it is not entitled to full faith and credit 68
under 18 U.S.C. 2265(c). 69

(D) If a person is charged with a violation of this 70
section, service of the protection order or consent agreement on 71
the defendant is not required to prove the violation if the 72
prosecution proves that the defendant had actual notice that 73
there was a protection order or consent agreement and proves 74
that the defendant recklessly violated the terms of the order or 75

agreement. 76

(E) As used in this section, "protection order issued by a 77
court of another state" means an injunction or another order 78
issued by a criminal court of another state for the purpose of 79
preventing violent or threatening acts or harassment against, 80
contact or communication with, or physical proximity to another 81
person, including a temporary order, and means an injunction or 82
order of that nature issued by a civil court of another state, 83
including a temporary order and a final order issued in an 84
independent action or as a pendente lite order in a proceeding 85
for other relief, if the court issued it in response to a 86
complaint, petition, or motion filed by or on behalf of a person 87
seeking protection. "Protection order issued by a court of 88
another state" does not include an order for support or for 89
custody of a child issued pursuant to the divorce and child 90
custody laws of another state, except to the extent that the 91
order for support or for custody of a child is entitled to full 92
faith and credit under the laws of the United States. 93

Section 2. That existing section 2919.27 of the Revised 94
Code is hereby repealed. 95

Section 3. The amendments made by this act to division (D) 96
of section 2919.27 of the Revised Code are intended to supersede 97
the holding of the Ohio Supreme Court in *State v. Smith* (2013), 98
136 Ohio St.3d 1, so that unperfected service of a protection 99
order or consent agreement does not preclude a prosecution for a 100
violation of division (A) of that section. 101