

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 76**

**Senators Bacon, Manning**

**Cosponsors: Senators Beagle, Brown, Cafaro, Hughes, Jones, Oelslager, Patton,  
Seitz, Thomas, LaRose**

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**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.

(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 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) If a person is charged with a violation of this section, service of the protection order or consent agreement on the defendant is not required to prove the violation if the prosecution proves that the defendant had actual notice that there was a protection order or consent agreement 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.