



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 28
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Hottinger

Lisa Sandberg, Attorney

Summary

- Increases the penalty for the offense of “violating a protection order” if either of the following applies:
 - The offender has one or more prior convictions or delinquency adjudications of that offense or another specified stalking-related offense or protection order violations under the law of Ohio or any other specified jurisdiction;
 - The offender has two or more prior convictions or delinquency adjudications of a specified menacing-related or trespass-related offense under the law of Ohio or any other specified jurisdiction

Detailed Analysis

Violating a protection order – offense classification

The bill increases the penalty for the offense of “violating a protection order” (see “**Background**,” below) if the offender has one or more prior convictions or delinquent child adjudications of that offense, of the offense of menacing by stalking, or of protection order violations under Ohio law or any other specified jurisdiction, or has two or more prior convictions or delinquent child adjudications of aggravated menacing, menacing, or aggravated trespass under Ohio law or any other specified jurisdiction.

Under the bill, as under existing law, the penalty for violating a protection order generally is a first degree misdemeanor but the penalty increases in specified circumstances. Under the bill, the increased penalties are as follows (the existing penalty that applies in comparable circumstances is specified in parentheses):¹

1. The offense is a fourth degree felony if the offender previously has been convicted of or been adjudicated a delinquent child for any of the following:

¹ R.C. 2919.27(B)(1) to (4).

- a. A violation of a protection order issued under R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31 (see “**Background**,” below) (currently a fifth degree felony) or pursuant to an existing or former municipal ordinance or law of Ohio or any other state of the United States that is substantially similar to any of those sections (currently a fifth degree felony if the violation is of an order by a court of another state and a first degree misdemeanor in all other circumstances);
 - b. Two offenses of menacing, aggravated menacing, or aggravated trespass, or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement (currently a fifth degree felony);
 - c. One offense of violating a protection order (currently a fifth degree felony), one offense of menacing by stalking (currently a first degree misdemeanor), or one offense of violating an existing or former municipal ordinance or law of Ohio or any other state of the United States that is substantially similar to the offense of violating a protection order or menacing by stalking (currently a first degree misdemeanor).
2. The offense is a third degree felony if the offender previously has been convicted of or been adjudicated a delinquent child for any of the following:
- a. Two or more violations of a protection order issued under R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31 (currently a fifth degree felony), or pursuant to an existing or former municipal ordinance or law of Ohio or any other state of the United States that is substantially similar to any of those sections (currently a fifth degree felony if the violation is of an order of a court of another state and a first degree misdemeanor in all other circumstances);
 - b. Three or more offenses of menacing, aggravated menacing, or aggravated trespass that involved the same person who is the subject of the protection order or consent agreement (currently a fifth degree felony; note that this provision of the bill does not expressly refer to “a combination” of the specified offenses as a ground for this increased penalty, as is specified under the provision described above in (1)(b));
 - c. Two or more offenses of violating a protection order (currently a fifth degree felony), two or more offenses of menacing by stalking (currently a fifth degree felony), or two or more violations of an existing or former municipal ordinance or law of Ohio or any other state of the United States that is substantially similar to the offense of violating a protection order or menacing by stalking (currently a first degree misdemeanor).
3. The offense is a third degree felony if the offender violated the protection order or consent agreement while committing a felony offense (currently a third degree felony).

Violating a protection order – electronic monitoring of offender

Under existing law, unchanged by the bill, if an offender violates a protection order that was issued under R.C. 2151.34 or 2903.214 and that required electronic monitoring of the offender, the court may require, in addition to any other sentence imposed, that the offender

be electronically monitored by a law enforcement agency designated by the court.² Regarding electronic monitoring ordered by the court as described above:³

1. The court may order the electronic monitoring for a period not exceeding five years.
2. Unless the court determines that the offender is indigent, the court must order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the device. If the court determines that the offender is indigent and subject to the maximum amount allowable and specified rules promulgated by the Attorney General, the costs of the installation of the electronic monitoring device and the cost of monitoring the device may be paid out of funds from the Reparations Fund, subject to a specified maximum amount of payment from that Fund.

Background

Violating a protection order – prohibitions

The existing prohibitions under the offense of violating a protection order, unchanged by the bill, prohibit a person from recklessly violating the terms of any of the following: (1) a protection order issued or consent agreement approved under R.C. 2919.26 or 3113.31, (2) A protection order issued under R.C. 2151.34, 2903.213, or 2903.214, or (3) a “protection order issued by a court of another state,” which is a defined term.⁴

Types of protection orders

Existing law, unchanged by the bill, provides for the issuance of the following types of protection orders:

1. A juvenile court protection order against a person under age 18 who allegedly committed a specified assault or menacing offense or aggravated trespass, a sexually oriented offense, or a substantially equivalent municipal ordinance violation against the person to be protected by the order;⁵
2. A civil protection order against a person: (a) age 18 or older who allegedly committed menacing by stalking or a sexually oriented offense against the person to be protected by the order,⁶ (b) who allegedly has engaged in domestic violence (including any sexually oriented offense) against a specified family or household member to be protected under the order,⁷ or (c) who allegedly has engaged in dating violence against a person with whom the respondent is or was in a dating relationship;⁸

² R.C. 2919.27(B)(5).

³ R.C. 2919.27(B)(5).

⁴ R.C. 2919.27(A).

⁵ R.C. 2151.34, not in the bill.

⁶ R.C. 2903.214, not in the bill.

⁷ R.C. 3113.31, not in the bill.

⁸ R.C. 3113.31, not in the bill.

- 3. A criminal protection order against a person: (a) charged with a specified assault or menacing offense or aggravated trespass, a substantially equivalent municipal ordinance violation, or a sexually oriented offense against a victim who is not a family or household member of the offender,⁹ or (b) charged with criminal damaging or endangering, criminal mischief, burglary, or aggravated trespass, a municipal ordinance violation that is substantially similar to any of those offenses, an offense of violence (including domestic violence), or a sexually oriented offense against an alleged victim who was a family or household member.¹⁰

History

Action	Date
Introduced	02-12-19

S0028-I-133/ts

⁹ R.C. 2903.213, not in the bill.

¹⁰ R.C. 2919.26, not in the bill.