



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Dennis M. Papp

S.B. 171

132nd General Assembly
(As Introduced)

Sens. Hottinger, Gardner, Eklund, Lehner, Beagle

BILL SUMMARY

- Increases the penalty for the offense of "violating a protection order" if the offender has one or more prior convictions of that offense or another specified menacing-related, stalking-related, or trespass-related offense.
 - Requires that electronic monitoring of those convicted of violating certain protection orders that included electronic monitoring be carried out by a probation agency instead of by a law enforcement agency.
-

CONTENT AND OPERATION

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 of that offense or of the offense of aggravated menacing, menacing by stalking, menacing, or aggravated trespass.

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 (currently a fifth degree felony in comparable circumstances): (a) a violation of a protection order

¹ R.C. 2919.27(B)(1) to (4).

issued under R.C. 2151.34, 2903.213, or 2903.214 (see "**Background**," below), (b) two offenses of menacing, menacing by stalking, aggravated menacing, or aggravated trespass that involved the same person who is the subject of the protection order or consent agreement, or (c) one offense of violating a protection order.

(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 (currently a fifth degree felony in comparable circumstances): (a) two or more violations of a protection order issued under R.C. 2151.34, 2903.213, or 2903.214, (b) three or more offenses of menacing, menacing by stalking, aggravated menacing, or aggravated trespass that involved the same person who is the subject of the protection order or consent agreement, or (c) two or more offenses of violating a protection order.

(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 in this circumstance).

Violating a protection order – electronic monitoring of offender

The bill changes the entity responsible for electronically monitoring an offender convicted of violating a protection order when the court, in specified circumstances, requires electronic monitoring of the offender. Under the bill, if the protection order violated by the offender was issued under R.C. 2151.34 or 2903.214 and required electronic monitoring of the offender, the court may require in addition to any other sentence impose that the offender be electronically monitored by a probation agency designated by the court. Currently, if the protection order violated was issued under one of those sections and 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 As used in the bill's provision, "probation agency" means a county department of probation, a multicounty department of probation, a municipal court department of probation, or the Adult Parole Authority.³

Regarding electronic monitoring ordered by the court as described above, under both the bill and existing law:⁴

² R.C. 2919.27(B)(5).

³ R.C. 2919.27(D), by reference to R.C. 2951.01, not in the bill.

⁴ R.C. 2919.27(B)(5).



(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.⁵

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;⁶

(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,⁷ or (b) who allegedly has engaged in domestic violence

⁵ R.C. 2919.27(A).

⁶ R.C. 2151.34, not in the bill.

⁷ R.C. 2903.214, not in the bill.



(including any sexually oriented offense) against a specified family or household member to be protected under the order;⁸

(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	07-06-17

⁸ R.C. 3113.31, not in the bill.

⁹ R.C. 2903.213, not in the bill.

¹⁰ R.C. 2919.26, not in the bill.

