Aida S. Montano *Legislative Service Commission*

Sub. S.B. 253

124th General Assembly
(As Passed by the Senate)

Sens. Austria, Robert Gardner, Hagan, Harris, Hottinger, Mead, Mumper, Oelslager, Shoemaker, Spada, Prentiss

BILL SUMMARY

- Specifies that no court or unit of state or local government may charge any fee, cost, deposit, or money "in connection with the filing" (changed from "for the filing") of a motion or petition for a criminal assault-related, menacing-related, or anti-stalking protection order, a civil anti-stalking protection order, a criminal domestic violence temporary protection order, or a civil domestic violence protection order or consent agreement.

- Specifies that no court or unit of state or local government may charge any fee, cost, deposit, or money in connection with the filing, issuance, registration, or service of a protection order or consent agreement of the type described in the preceding paragraph or a protection order issued by a court of another state, or for obtaining any certified copy of any such protection order or consent agreement.

- Specifies that no court or unit of state or local government may charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person committed domestic violence under state law or under a municipal ordinance or in connection with the prosecution of any charges so filed.

- In the definition of "protection order issued by a court of another state" that applies to certain laws, modifies the provision that exempts from the definition orders for support or for custody of a child so that the exemption applies to *orders 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*.

CONTENT AND OPERATION

Charging of fees, costs, deposits, and money related to protection orders and consent agreements

Existing law

Existing law provides that, notwithstanding any provision of law to the contrary, *no court may charge a fee for the filing of a motion or petition* for a "criminal assault-related, menacing-related, or anti-stalking protection order," a "civil anti-stalking protection order," a "criminal domestic violence temporary protection order," or a "civil domestic violence protection order or consent agreement" (R.C. 2903.213(I), 2903.214(J), 2919.26(J), and 3113.31(J)). See "***Background--Ohio protection orders***," below, for a description of the types of protection orders and consent agreements referred to in the preceding sentence.

Existing law also provides that, if a petitioner who obtains a criminal assault-related, menacing-related, or anti-stalking protection order, a civil anti-stalking protection order, a criminal domestic violence temporary protection order, or a civil domestic violence protection order or consent agreement wishes to register the order or agreement in any county other than the county in which the order was issued or the agreement was approved, pursuant to the authority of other specified provisions of existing law (see **COMMENT** 1), and *if the petitioner is indigent*, both of the following apply: (1) if the petitioner submits to the clerk of the court that issued the order or approved the agreement satisfactory proof that the petitioner is indigent, *the clerk may waive any fee that otherwise would be required for providing the petitioner with a certified copy of the order or agreement* to be used for purposes of those other provisions, and (2) if the petitioner submits to the clerk of the court of common pleas or the clerk of a municipal court or county court in the county in which the order or agreement is to be registered satisfactory proof that the petitioner is indigent, *the clerk may waive any fee that otherwise would be required for accepting for registration a certified copy of the order or agreement, for placing an endorsement of registration on the order or agreement, or for giving the petitioner a copy of the order or agreement that bears the proof of registration* (R.C. 2903.214(M)(4) and 3113.31(N)(4)).

Operation of the bill

The bill revises and expands the existing "no filing fee" provisions described above so that they provide that, notwithstanding any provision of law to the contrary *and regardless of whether a protection order or consent agreement is issued or approved by a court of another county or by a court of another state*, no court *or unit of state or local government* may charge any fee, *cost, deposit, or*

money in connection with the filing (changed from "for the filing") of a motion or petition for a criminal assault-related, menacing-related, or anti-stalking protection order, a civil anti-stalking protection order, a criminal domestic violence temporary protection order, or a civil domestic violence protection order or consent agreement, *in connection with the filing, issuance, registration, or service of a protection order or consent agreement, or for obtaining any certified copy of a protection order or consent agreement* (R.C. 2903.213(I), 2903.214(J), 2919.26(J), and 3113.31(J)).

Related to the change described in the preceding paragraph, the bill repeals the existing provisions described above regarding a limited, discretionary exemption from certain fees for persons who are indigent and who are registering a protection order or consent agreement in a county other than the county in which the order was issued or the consent agreement was approved. The limited exemptions are subsumed within the bill's general "no fee" provision described in the preceding paragraph, and no longer will be necessary as separate, limited exemptions. (Repeal of R.C. 2903.214(M)(4) and 3113.31(N)(4).)

The bill also enacts a general "no fee, cost, deposit, or money" provision in the existing provision that pertains to the registration and enforcement of protection orders issued by a court of another state (see "***Protection orders issued in another state***," below). In that provision, the bill specifies that, notwithstanding any provision of law to the contrary and regardless of whether a protection order is issued or a consent agreement is approved by a court of another county or by a court of another state, no court or unit of state or local government may charge any fee, cost, deposit, or money in connection with the filing, issuance, registration, or service of a protection order or consent agreement or for obtaining any certified copy of a protection order or consent agreement, including a protection order issued by a court of another state (R.C. 2919.272(E).)

Charging of fees, costs, deposits, and moneys for the filing or prosecution of criminal domestic violence charges

Existing law

Existing law prohibits a person from doing any of the following: (1) knowingly causing or attempting to cause physical harm to a family or household member, (2) recklessly causing serious physical harm to a family or household member, or (3) by threat of force, knowingly causing a family or household member to believe that the offender will cause imminent physical harm to the family or household member. A violation of any of the prohibitions is the offense of "domestic violence." Depending upon the circumstances present, the offense is a misdemeanor of the first, third, or fourth degree, or felony of the fifth degree. (R.C. 2919.25.)

Existing law does not specifically address the charging of any fee, cost, deposit, or money in relation to the filing or prosecution of domestic violence charges.

Operation of the bill

The bill enacts a general "no fee, cost, deposit, or money" provision regarding the filing and prosecution of domestic violence charges. In that provision, the bill specifies that, notwithstanding any provision of law to the contrary, no court or unit of state or local government may charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated existing R.C. 2919.25, as described above in "***Existing law***," or a municipal ordinance substantially similar to that section or in connection with the prosecution of any charges so filed. (R.C. 2919.25(E).)

Protection orders issued in another state

Existing law

Existing law provides that a person who has obtained a "protection order issued by a court of another state" (see below) may register the order in Ohio (see **COMMENT** 2), and that an officer of a law enforcement agency in Ohio must enforce a protection order issued by a court of another state in accordance with the provisions of the order, including removing the person allegedly violating the order from the premises, regardless of whether the order is registered in the county in which the officer's agency has jurisdiction. (R.C. 2919.272.)

Existing law prohibits a person from recklessly violating the terms of any "protection order issued by a court of another state" (the provision also prohibits a person from recklessly violating any criminal assault-related, menacing-related, or anti-stalking protection order, any civil anti-stalking protection order, any criminal domestic violence temporary protection order, or any civil domestic violence protection order or consent agreement issued by an Ohio court). A violation of the prohibition is the offense of "violating a protection order." Depending upon the circumstances present, the offense is a misdemeanor of the first degree or a felony of the fifth degree. (R.C. 2919.27.)

As used in the provisions described in the preceding two paragraphs, "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. (R.C. 2919.27 and 2919.272.)

Operation of the bill

The bill modifies the provision that exempts orders for support or for custody of a child from the definition of "protection order issued by a court of another state" that applies to R.C. 2919.27 and 2919.272, as described above. Under the bill, the exemption specifies that "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*. The bill does not otherwise change the definition of "protection order issued by a court of another state." (R.C. 2919.27(D), and by reference in R.C. 2919.272(A).)

Background--Ohio protection orders

Existing law provides, in specified circumstances, for the issuance of orders by Ohio courts to protect certain persons who have been or might be the subject of certain conduct by another that involves assault, menacing, stalking, or domestic violence. Briefly, existing law provides as follows:

Criminal assault-related, menacing-related, or anti-stalking protection orders

Existing law provides that, except when the complaint involves a person who is a family or household member as defined in the statute that contains the offense of "domestic violence" (see "***Existing law***" under "***Charging of fees, costs, deposits, and moneys for the filing or prosecution of criminal domestic violence charges***," above), upon the filing of a complaint that alleges a violation of existing R.C. 2903.11 ("felonious assault"), 2903.12 ("aggravated assault"), 2903.13 ("assault"), 2903.21 ("aggravated menacing"), 2903.211 ("menacing by stalking"), 2903.22 ("menacing"), or 2911.211 ("aggravated trespass") or a violation of a municipal ordinance substantially similar to existing R.C. 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211, the complainant, the alleged victim, or a family or household member of an alleged victim may file a motion that requests the issuance of a protection order as a pretrial condition of release of the alleged offender (in the remaining portions of this Analysis, an order of this type is referred to as "a criminal assault-related, menacing-related, or anti-stalking protection order"). The motion must be filed with the clerk of the court that has

jurisdiction of the case at any time after the filing of the complaint. If the complaint involves a person who is a family or household member, the complainant, the alleged victim, or the family or household member may file a motion for a temporary protection order pursuant to the provision described in "***Criminal domestic violence temporary protection orders***," below. Existing law provides procedures for deciding the motion, issuance of a protection order based upon the motion, enforcement of the protection order, and registration in other counties of the protection order (see **COMMENT** 1). Law enforcement officers throughout the state must enforce protection orders so issued, regardless of whether the particular order has been registered in the particular officer's county. (R.C. 2903.213.)

Civil anti-stalking protection orders

Existing law provides that a person may file a petition that alleges that another person (the respondent) engaged in a violation of existing R.C. 2903.211 ("menacing by stalking") against the person to be protected by the protection order, that includes a description of the nature and extent of the violation, and that requests relief by the issuance of a civil protection order (in the remaining portions of this Analysis, an order of this type is referred to as "a civil anti-stalking protection order"). A person may seek relief under this provision for the person, and any parent or adult household member may seek relief under this provision on behalf of any other "family or household member." The petition must be filed in the court of common pleas of the county in which the person to be protected by the protection order resides. Existing law provides procedures for deciding the petition, issuance of a protection order based upon the petition, enforcement of the protection order, and registration in other counties of the protection order (see **COMMENT** 1). Law enforcement officers throughout the state must enforce protection orders so issued, regardless of whether the particular order has been registered in the particular officer's county. (R.C. 2903.214.)

Criminal domestic violence temporary protection orders

Existing law provides that, upon the filing of a complaint that alleges a violation of existing R.C. 2919.25 ("domestic violence"), a violation of a municipal ordinance substantially similar to that section, a violation of existing R.C. 2903.11 ("felonious assault"), 2903.12 ("aggravated assault"), 2903.13 ("assault"), 2903.211 ("menacing by stalking"), or 2911.211 ("aggravated trespass") that involves a person who was a "family or household member" at the time of the violation, or a violation of a municipal ordinance substantially similar to existing R.C. 2903.13, 2903.211, or 2911.211 that involves a person who was a "family or household member" at the time of the violation, the complainant, the alleged victim, or a family or household member of an alleged victim may file, or, if in an emergency the alleged victim is unable to file, a person who made an

arrest for the alleged violation may file on behalf of the alleged victim, a motion that requests the issuance of a temporary protection order as a pretrial condition of release of the alleged offender (in the remaining portions of this Analysis, an order of this type is referred to as "a criminal domestic violence temporary protection order"). The motion must be filed with the clerk of the court that has jurisdiction of the case at any time after the filing of the complaint. Existing law provides procedures for deciding the motion, issuance of a protection order based upon the motion, enforcement of the protection order, and registration in other counties of the protection order (see **COMMENT** 1). Law enforcement officers throughout the state must enforce temporary protection orders so issued, regardless of whether the particular order has been registered in the particular officer's county. (R.C. 2919.26.)

Civil domestic violence protection orders

Existing law provides that a person may file a petition that alleges that another person (the respondent) engaged in "domestic violence" (see below) against a family or household member of the respondent, that includes a description of the nature and extent of the domestic violence, that specifies the relationship of the respondent to the petitioner, and to the victim if other than the petitioner, and that requests relief by the issuance of a civil protection order (in the remaining portions of this Analysis, an order of this type is referred to as "a civil domestic violence protection order"). A person may seek relief under this provision on the person's own behalf, and any parent or adult household member may seek relief under this provision on behalf of any other "family or household member." The petition must be filed in the domestic relations division of the court of common pleas in counties that have a domestic relations division, and the court of common pleas in counties that do not have a domestic relations division. As used in this provision, "domestic violence" means the occurrence of one or more of the following acts against a family or household member: (a) attempting to cause or recklessly causing bodily injury, (b) placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of existing R.C. 2903.211 ("menacing by stalking") or 2911.211 ("aggravated trespass"), or (c) committing any act with respect to a child that would result in the child being an abused child, as defined in existing R.C. 2151.031. Existing law provides procedures for deciding the petition, issuance of a protection order or approval of a consent agreement based upon the petition, enforcement of the protection order or consent agreement, and registration in other counties of the protection order or consent agreement (see **COMMENT** 1). Law enforcement officers throughout the state must enforce protection orders so issued and consent agreements so approved, regardless of whether the particular order or agreement has been registered in the particular officer's county. (R.C. 3113.31.)

COMMENT

1. Existing law, unchanged by the bill, provides that a petitioner who obtains a criminal assault-related, menacing-related, or anti-stalking protection order, a civil anti-stalking protection order, a criminal domestic violence temporary protection order, or a civil domestic violence protection order or consent agreement may provide notice of the issuance or approval of the order or agreement to the judicial and law enforcement officials in any county other than the county in which the order is issued or the agreement is approved (nonissuing county) by registering that order or agreement in the other county as described below and filing a copy of the registered order or agreement with a law enforcement agency in the other county as described below. A person who obtains a protection order issued by a court of another state may provide notice of the issuance of the order to the judicial and law enforcement officials in any Ohio county by registering the order in that county pursuant to existing R.C. 2919.272 (see **COMMENT** 2) and filing a copy of the registered order with a law enforcement agency in that county.

A petitioner may register the protection order or consent agreement in a nonissuing county in the following manner: (a) the petitioner must present a certified copy of the order or agreement to the clerk of the common pleas, municipal, or county court in the county in which the order or agreement is to be registered, and (b) the clerk of the court that accepts the certified copy for registration must place an endorsement of registration on the order or agreement and give the petitioner a copy of the order or agreement that bears that proof of registration. The clerk of each common pleas, municipal, or county court must maintain a registry of certified copies of protection orders and consent agreements that have been issued by courts in other counties and that have been registered with the clerk. (R.C. 2903.214(M)(1) to (3) and 3113.31(N)(1) to (3).)

2. Existing law, unchanged by the bill, provides that a person who has obtained a "protection order issued by a court of another jurisdiction" (see "***Protection orders issued in another state***," above, for a definition of that phrase) may provide notice of the issuance of the order to judicial and law enforcement officials in any Ohio county by registering the order in that county and filing a copy of the registered order with a law enforcement agency in that county. To register the order, the person must present a certified copy of the order to the clerk of the common pleas, municipal, or county court in the county in which the order is to be registered. The clerk must place an endorsement of registration on the order accepted for registration and give the person a copy of the order that bears proof of registration. The person then may file with a law enforcement agency in that county a copy of the order that bears proof of registration. The clerk of each common pleas, municipal, and county court must maintain a registry of certified

copies of protection orders issued by courts of another state that have been registered with the clerk. Each law enforcement agency must establish and maintain a registry for protection orders delivered to the agency as described in this paragraph and must note in the registry the date and time that it received an order. (R.C. 2919.272.)

HISTORY

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