



Dennis M. Papp

*Bill Analysis*  
Legislative Service Commission

## **S.B. 54**

126th General Assembly  
(As Introduced)

Sens. Cates, Gardner, Clancy, Dann, Mumper, Fingerhut

---

### **BILL SUMMARY**

- Eliminates the requirement that a person charged with committing an offense of violence against a family or household member either be subject to a protection order issued or consent agreement approved under R.C. 2919.26 or 3113.31 or have previously been convicted of or pleaded guilty to certain offenses before the court is required to consider certain specified factors in setting bail.
- Requires that a person charged with committing an offense of violence against a family or household member appear before the court for the setting of bail.

---

### **CONTENT AND OPERATION**

#### **Setting of bail for a person who commits an offense of violence against a family or household member**

##### **Existing law**

**General requirement.** Under existing R.C. 2919.251(A), a court must consider a list of specified factors (see below), in addition to any other circumstances that it may take into account and notwithstanding the provisions of the Criminal Rules that pertain to the setting of bail, before setting bail for a person who is charged with the commission of any "offense of violence" (see **COMMENT 1**) if the alleged victim was a "family or household member" (see **COMMENT 2**) at the time of the offense and if the person charged, at the time of the alleged offense, was subject to the terms of a protection order issued or consent agreement approved pursuant to R.C. 2919.26 or 3113.31 (see **COMMENT 3**) or previously was convicted of or pleaded guilty to any of the following:

(1) A violation of R.C. 2919.25 (domestic violence) or a violation of R.C. 2919.27 (violation of a protection order) involving a protection order issued or consent agreement approved pursuant to R.C. 2919.26 or R.C. 3113.31;

(2) A violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially similar to either R.C. 2919.25 or 2919.27;

(3) A violation of R.C. 2909.06 (criminal damaging or endangering), 2909.07 (criminal mischief), 2911.12 (burglary), or 2911.211 (aggravated trespass) if the victim of the violation was a family or household member at the time of the violation;

(4) A violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially similar to R.C. 2909.06, 2909.07, 2911.12, or 2911.211 if the victim of the violation was a family or household member at the time of the commission of the violation;

(5) Any offense of violence if the victim of the offense was a family or household member at the time of the offense.

**Factors that must be considered.** The factors that the court must consider in setting bail in the circumstances described above are (R.C. 2919.251(A)):

(1) Whether the person has a history of domestic violence or a history of other violent acts;

(2) The mental health of the person;

(3) Whether the person has a history of violating the orders of any court or governmental entity;

(4) Whether the person is potentially a threat to any other person;

(5) Whether setting bail at a high level will interfere with any treatment or counseling that the person or the family of the person is undergoing.

### **Operation of the bill**

The bill eliminates the requirement that a person charged with committing an offense of violence against a family or household member either be subject to an R.C. 2919.26 or 3113.31 protection order or consent agreement or have previously been convicted of or pleaded guilty to any offense listed above in "**Existing law**" before the court is required to consider the enumerated factors listed above in "**Existing law**" in setting bail. Under the bill, the court must

consider those factors, in addition to any circumstances that it may take into account and notwithstanding the provisions of the Criminal Rules that pertain to the setting of bail, if the person is charged with the commission of any offense of violence and if the alleged victim of the offense was a family or household member at the time of the offense.

The bill also expands the provision by adding a requirement that a person charged with committing an offense of violence against a family or household member appear before the court for the setting of bail. (R.C. 2919.251(A).)

---

## COMMENT

1. "Offense of violence" means any of the following (R.C. 2901.01(A)(9)):

(a) A violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), 2903.03 (voluntary manslaughter), 2903.04 (involuntary manslaughter), 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.15 (permitting child abuse), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), 2905.01 (kidnapping), 2905.02 (abduction), 2905.11 (extortion), 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), 2909.02 (aggravated arson), 2909.03 (arson), 2909.24 (terrorism), 2911.01 (aggravated robbery), 2911.02 (robbery), 2911.11 (aggravated burglary), 2917.01 (inciting to violence), 2917.02 (aggravated riot), 2917.03 (riot), 2917.31 (inducing panic), 2919.25 (domestic violence), 2921.03 (intimidation), 2921.04 (intimidating an attorney, victim, or witness in a criminal case), 2921.34 (escape), or 2923.161 (improperly discharging a firearm at a habitation or under circumstances related to a school), of division (A)(1), (2), or (3) of R.C. 2911.12 (certain forms of burglary), or of division (B)(1), (2), (3), or (4) of R.C. 2919.22 (certain forms of endangering children) or felonious sexual penetration in violation of former R.C. 2907.12;

(b) A violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States creating offenses substantially equivalent to those listed in the preceding paragraph;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense listed in the preceding three paragraphs.

2. R.C. 2919.25 defines "family or household member" as any of the following:

(a) Any of the following who is residing or has resided with the offender:

(i) A spouse, a "person living as a spouse" (see below), or a former spouse of the offender;

(ii) A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.

(b) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

The statute defines "person living as a spouse" as a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.

3. R.C. 2919.26 provides for temporary protection orders when a complaint has been filed alleging criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, an offense of violence, or any comparable municipal ordinance violation committed against a family or household member. R.C. 3113.31 provides for protection orders or consent agreements when a petition has been filed alleging domestic violence.

---

## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-10-05	p. 163

s0054-i-126.doc/kl