



# Ohio Legislative Service Commission

## Bill Analysis

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(As Reported by H. Civil and Commercial Law)

**Reps.** Brown, Szollosi, B. Williams, Letson, Harwood, Stewart, Chandler, Gardner, Boyd, Garrison, Otterman, Luckie, Stebelton, Harris, Newcomb, S. Williams, Phillips, Foley, Slesnick, Fende, Pillich, Book, Mecklenborg, Skindell, Yates

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## BILL SUMMARY

- Provides that the existing procedure for filing a petition for a protection order for the alleged commission of menacing by stalking or a sexually oriented offense applies to offenders who are 18 years of age or older.
- Requires a petition for a protection order against a respondent who is a minor to be filed in the juvenile division of the court of common pleas in the county in which the petitioner resides.
- Creates a procedure in the Juvenile Code, parallel to the existing procedure for seeking a criminal protection order against a minor respondent pursuant to which a person alleges that (1) the respondent committed felonious assault, aggravated assault, assault, aggravated menacing, menacing by stalking, menacing, or aggravated trespass, a sexually oriented offense, or a violation of a municipal ordinance that is substantially equivalent to any of those offenses against the person, and (2) the respondent is less than 18 years of age.
- Provides that a petition for a criminal protection order against a minor respondent may be filed by any person on behalf of that person, any parent or adult family or household member on behalf of any other family or household member, or any person who is determined by the court in its discretion as an appropriate person to seek relief on behalf of any child.
- Authorizes the juvenile court, after appropriate hearings, to issue a criminal protection order that contains terms designed to ensure the safety and protection of the person to be protected, including the electronic monitoring of the respondent upon certain allegations and findings, and requires the protection order to clearly

state that the person to be protected cannot waive or nullify by invitation or consent any requirement in the order.

- Provides that the juvenile court may determine if the respondent who is less than 18 years of age is entitled to court-appointed counsel in the proceeding for a criminal protection order.
- Allows victims of domestic violence to apply for a civil protection order or consent agreement in the juvenile division of the court of common pleas of the county in which the person to be protected resides if the respondent is under 18 years of age.
- Requires that a criminal protection order or a civil protection order or consent agreement against a respondent who is under 18 years of age include a provision that the juvenile court will expunge the records of the proceeding in which the order is issued or the agreement approved not later than 30 days after the respondent attains 18 years of age unless the petitioner provides the court with evidence that the respondent has not complied with all of the terms of the order or agreement and requires the order or agreement to specify the date when the respondent attains 18 years of age.
- Requires a juvenile court that issues a criminal or civil protection order or approves a consent agreement against a person who is under 18 years of age to expunge all of the records of the proceeding in which the order was issued or the agreement approved not later than 30 days after the person against whom the order was issued or the agreement approved attains 18 years of age if the court determines that the person has complied with all of the terms of the order or agreement and requires a juvenile court to expunge all of the records in the applicable proceeding if it does not issue any criminal protection order or civil protection order or approve any consent agreement in the proceeding.
- Includes violating a criminal or civil protection order or a consent agreement obtained against a respondent who is under 18 years of age under the above described procedures in a juvenile court within the offense of "violating a protection order."
- Expands the jurisdiction of the juvenile court to hear and determine matters involving protection orders or consent agreements against a child and to enforce those orders or agreements until a date certain but not later than the date the child attains 18 years of age.
- Includes a foster parent in the definition of "family or household member" in the criminal and civil domestic violence laws.

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## TABLE OF CONTENTS

Criminal protection orders.....	3
Existing law.....	3
Operation of the bill.....	5
Offense of "violating a protection order" .....	8
Civil protection order available for a victim of domestic violence.....	9
Existing law.....	9
Operation of the bill.....	11
Expungement of juvenile court records in protection order proceedings .....	11
Juvenile court's exclusive jurisdiction over new protection order procedure and civil protection orders and consent agreements for victims of domestic violence.....	12
Inclusion of foster parents as victims under the domestic violence laws .....	12
The criminal offense of domestic violence.....	12
Shelters for domestic violence victims.....	13

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## CONTENT AND OPERATION

### Criminal protection orders

#### Existing law

##### Petition for protection order

Generally, any person may petition the court for a protection order from another person allegedly engaging in a violation of R.C. 2903.211 (menacing by stalking) or a sexually oriented offense (see **COMMENT 1**). Additionally, any parent or adult household member may seek such relief on behalf of any other family or household member. The petition must be filed with the court of common pleas in the county in which the person to be protected by the protection order resides and must contain all of the following (R.C. 2903.214(C)):

(1) An allegation that the respondent engaged in a violation of R.C. 2903.211 (menacing by stalking), or committed a sexually oriented offense, against the person to be protected by the protection order, including a description of the nature and extent of the violation.

(2) If the petitioner seeks relief in the form of electronic monitoring of the respondent, an allegation that at any time preceding the filing of the petition the respondent engaged in conduct that would cause a reasonable person to believe that the health, welfare, or safety of the person to be protected was at risk, a description of the nature and extent of that conduct, and an allegation that the respondent presents a continuing danger to the person to be protected;

(3) A request for relief.

Additionally, the petitioner may request a temporary *ex parte* order, and the court must hold an *ex parte* hearing as soon as possible after the petition is filed, but not later than the next day after the court is in session after the petition is filed. The court may issue an *ex parte* order if the court finds it necessary for the safety and protection of the person to be protected, including that the person is in "immediate and present danger." "Immediate and present danger" includes, but is not limited to, situations in which the respondent has threatened the person to be protected by the protection order with bodily harm, or in which the respondent previously has been convicted of or pleaded guilty to menacing by stalking or a sexually oriented offense against the person to be protected by the protection order. An *ex parte* hearing is followed by a full hearing within ten court days. (R.C. 2903.214(D)(1) and (2)(a).)

### **Issuance of protection order**

After the appropriate hearings, the court may issue a protection order that ensures the safety and protection of the person to be protected, including, but not limited to, a requirement that the respondent refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member. If the court includes such a requirement in the order, it also must include a provision that the order cannot be waived or nullified by an invitation to the alleged offender from the complainant to enter the residence, school, business, or place of employment or by the alleged offender's entry into one of those places otherwise upon the consent of the petitioner or family or household member. (R.C. 2903.214(E)(1)(a) and (5)(a).)

If the court considering a petition that includes an allegation of the type described above in paragraph (2) under "**Petition for protection order**" or the court upon its own motion, finds upon clear and convincing evidence that the petitioner reasonably believed that the respondent's conduct at any time preceding the filing of the petition endangered the health, welfare, or safety of the person to be protected and that the respondent presents a continuing danger to the person to be protected, the court may order that the respondent be electronically monitored for a period of time and under the terms and conditions that the court determines are appropriate. Electronic monitoring is in addition to any other relief granted to the petitioner. (R.C. 2903.214(E)(1)(b).)

In the protection order, the court may also include a provision that requires the petitioner to do, or refrain from doing, an act that the court may require the respondent to do, or refrain from doing. This provision may be included in the protection order only when all of the following circumstances exist (R.C. 2903.214(E)(3)):

- (1) The respondent files a separate petition for a protection order.

(2) The petitioner is served with notice of the respondent's petition at least 48 hours before the court holds a hearing with respect to the respondent's petition, or the petitioner waives the right to receive this notice.

(3) If the petitioner has requested an *ex parte* order, the court does not delay any hearing beyond the time specified in the order to consolidate the hearing with a hearing on the petition filed by the respondent.

(4) After a full hearing at which the respondent presents evidence in support of the request for a protection order and the petitioner is afforded an opportunity to defend against that evidence, the court determines that the petitioner has committed menacing by stalking, has committed a sexually oriented offense, or has violated another protection order relative to the person to be protected by the protection order.

#### **Duration of protection order**

A protection order is valid until a date certain but not later than five years after the date of its issuance (R.C. 2903.214(E)(2)(a)).

#### **Operation of the bill**

##### **Existing procedure for obtaining criminal protection order**

The bill modifies the procedure for obtaining under R.C. 2903.214 a protection order against a person who allegedly engaged in menacing by stalking or a sexually oriented offense (existing procedure described above in "**Existing law**") by requiring the petition for the protection order to allege that the respondent (person against whom the protection order is obtained) is 18 years of age or older. This change limits the existing procedure to respondents who are 18 years of age or older. (R.C. 2903.214(C)(1).)

##### **New procedure for obtaining a criminal protection order**

The bill also creates a similar procedure for obtaining a criminal protection order against a person who is under 18 years of age. The new procedure is the same structurally as the existing procedure but applies only to respondents who are under 18 years of age. Under the bill, any of the following may seek relief by filing a petition with the juvenile division of the court of common pleas of the county in which the person to be protected by the protection order resides: any person on behalf of that person, any parent or adult family or household member on behalf of any other family or household member,<sup>1</sup> or any person who is determined by the court in its discretion

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<sup>1</sup> See "**Civil protection order available for a victim of domestic violence**," below, for the definition of "family or household member."

as an appropriate person to seek relief on behalf of any child. The bill specifies that the petition for the protection order must contain or state: (1) an allegation that the respondent (defined as a person who is under 18 years of age and against whom a petition is filed) engaged in a violation of 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) (hereafter "covered offenses") (see **COMMENT 2** to 8), committed a sexually oriented offense, or engaged in a violation of any municipal ordinance that is substantially equivalent to any of those offenses against the person to be protected by the protection order, including a description of the nature and extent of the violation, (2) an allegation similar to paragraph (2) in "**Petition for protection order**" under "**Existing law**," above, if the petitioner seeks relief in the form of electronic monitoring of the respondent, and (3) a request for relief under the new procedure. The bill authorizes the court, in its discretion, to determine whether or not to give notice that a petition has been filed on behalf of a child to a parent of the child if the petition was filed by any person other than a parent of the child or to any person who is determined by the court to be an appropriate person to receive notice of the filing of the petition. (R.C. 2151.34(A), (B), and (C).)

#### ***Ex parte* hearing and order; notice of full hearing**

Under the bill, the petitioner (defined as a person who files a petition under the new procedure and includes a person on whose behalf such a petition is filed) may request a temporary *ex parte* order, and the court must hold an *ex parte* hearing as soon as possible after the petition is filed, but not later than the next day after the court is in session after the petition is filed. The court may issue an *ex parte* order if the court finds it necessary for the safety and protection of the person to be protected, including that the person is in "immediate and present danger." "Immediate and present danger" includes, but is not limited to, situations in which the respondent has threatened the person to be protected by the protection order with bodily harm, or in which the respondent previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any of the covered offenses, a sexually oriented offense, or a violation of a municipal ordinance that is substantially equivalent to any of those offenses against the person to be protected by the protection order. An *ex parte* hearing is followed by a full hearing within ten court days. The court must give the respondent notice of, and an opportunity to be heard at, the full hearing and also must give notice of the full hearing to the respondent's parent, guardian, or legal custodian. (R.C. 2151.34(A)(5) and (D)(1) and (2)(a).)

## Issuance of protection order

The bill provides that after an *ex parte* or full hearing, the court may issue any protection order, with or without bond, that contains terms designed to ensure the safety and protection of the person to be protected by the protection order. A protection order must clearly state that the person to be protected by the order cannot waive or nullify by invitation or consent any requirement in the order. (R.C. 2151.34(E)(1)(a) and (5)(a).) If the court considering a petition that includes an allegation of the type described above in paragraph (2) under "**New procedure for obtaining a criminal protection order**," or the court upon its own motion, finds upon clear and convincing evidence that the petitioner reasonably believed that the respondent's conduct at any time preceding the filing of the petition endangered the health, welfare, or safety of the person to be protected and that the respondent presents a continuing danger to the person to be protected, the court may order that the respondent be electronically monitored for a period of time and under the terms and conditions that the court determines are appropriate. Electronic monitoring is in addition to any other relief granted to the petitioner. (R.C. 2151.34(E)(1)(b).)

In the protection order, the court may not include a provision that requires the petitioner to do, or refrain from doing, an act that the court may require the respondent to do, or refrain from doing unless all of the same circumstances as described above in paragraphs (1), (2), and (3) in "**Issuance of protection order**" under "**Existing law**" exist and if, after a full hearing at which the respondent presents evidence in support of the request for a protection order and the petitioner is afforded an opportunity to defend against that evidence, the court determines that the petitioner has committed any of the covered offenses, a sexually oriented offense, or a violation of any municipal ordinance that is substantially equivalent to any of those offenses against the person to be protected by that protection order or has violated a protection order issued under the new procedure or under R.C. 2903.213 (protection order issued as a pretrial condition of release of certain alleged offenders) relative to the person to be protected by that protection order. (R.C. 2151.34(E)(3).)

The bill requires that a protection order issued pursuant to the new procedure include a provision that the court will expunge all of the records of the proceeding in which the order is issued not later than 30 days after the respondent attains the age of 18 years unless the petitioner provides the court with evidence that the respondent has not complied with all of the terms of the protection order. The protection order must specify the date when the respondent attains the age of 18 years. (R.C. 2151.34(E)(6).)

The bill further requires the court to direct that a copy of the protection order be delivered to the respondent and the respondent's parent, guardian, or legal custodian on the same day the order is issued (R.C. 2151.34(F)(1)).



### **Duration of protection order**

The bill provides that any protection order issued under the above described new procedure is valid until a date certain but not later than the date the respondent attains 18 years of age (R.C. 2151.34(E)(2)(a)).

### **Court determines if respondent is entitled to appointed counsel**

The bill permits the court, in its discretion, to determine if the respondent is entitled to court-appointed counsel in the new procedures discussed above for protection orders obtained against a person under 18 years of age (R.C. 2151.34(O)).

### **Offense of "violating a protection order"**

Existing law prohibits, in part, a person from recklessly violating the terms of a menacing by stalking protection order or a protection order issued as a pretrial condition of release of a person who allegedly committed the offenses of felonious assault, aggravated assault, assault, aggravated menacing, menacing by stalking, menacing, aggravated trespass, a violation of a municipal ordinance similar to assault, aggravated menacing, menacing by stalking, menacing, or aggravated trespass, or a sexually oriented offense (R.C. 2919.27(A)(2)). A person who violates this provision is guilty of "violating a protection order," generally a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of a protection order, two or more offenses of aggravated menacing, menacing by stalking, menacing, or aggravated trespass that involved the same person who is the subject of the protection order or consent agreement, or one or more offenses of "violating a protection order," "violating a protection order" is a felony of the fifth degree. If the protection order violated by the offender was a menacing by stalking protection order that required electronic monitoring of the offender, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires that the offender be electronically monitored, 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 electronic monitoring device. If the court determines that the offender is indigent, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device must be paid out of funds from the Reparations Fund created pursuant to R.C. 2743.191. (R.C. 2919.27(B).)

The bill prohibits a person from recklessly violating the terms of a protection order issued against a person who is under 18 years of age under the new procedure created by the bill. The penalty for violating this prohibition is the same as for violating



the existing prohibition against violating the terms of a protection order. The bill also applies the above described electronic monitoring sanction in existing law if the protection order violated by the offender was an order that was issued under the new procedure and required electronic monitoring of the offender. (R.C. 2919.27(A)(2) and (B).)

The bill provides that a person who violates a protection order obtained under the new procedure is subject to a delinquent child proceeding or a criminal prosecution for the offense of "violating a protection order" if a violation of the order constitutes such an offense or to punishment for contempt of court. (R.C. 2151.34(K)(1).)

## **Civil protection order available for a victim of domestic violence**

### **Existing law**

Under existing law, a victim of domestic violence may apply for a civil protection order or consent agreement.<sup>2</sup> The petition for a protection order must contain an allegation that the respondent has engaged in domestic violence against a "family or household member" (defined below) of the respondent, including a description of the nature and extent of the domestic violence; the relationship of the respondent to the petitioner, and to the victim if other than the petitioner; and a request for relief. (R.C. 3113.31(C).) If a court grants a protection order or consent agreement, the order or agreement may contain any of the following provisions (R.C. 3113.31(E)(1)):

(1) A direction that the respondent refrain from abusing or from committing sexually oriented offenses against the family or household members;

(2) A grant of possession of the residence or household to the petitioner or other family or household member, to the exclusion of the respondent, by evicting the respondent, when the residence or household is owned or leased solely by the petitioner or other family or household member, or an order to the respondent to vacate the premises, when the residence or household is jointly owned or leased by the respondent and the petitioner or other family or household member;

(3) When the respondent has a duty to support the petitioner or other family or household member living in the residence and the respondent is the sole owner or

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<sup>2</sup> For purposes of a civil protection order, "domestic violence" is defined as the occurrence of one or more of the following acts against a family or household member (R.C. 3113.31(A)(1)): (1) attempting to cause or recklessly causing bodily injury, (2) placing another person by the threat of force in fear of imminent physical harm or committing a violation of R.C. 2903.211 (menacing by stalking) or R.C. 2911.211 (aggravated trespass), (3) committing any act with respect to a child that would result in the child being an abused child, or (4) committing a sexually oriented offense.

lessee of the residence, a grant of possession of the residence to the petitioner or other family or household member, to the exclusion of the respondent, by ordering the respondent to vacate the premises, or, in the case of a consent agreement, allow the respondent to provide suitable, alternative housing;

(4) A temporary allocation of parental rights and responsibilities for the care of, or an establishment of temporary parenting time rights with regard to, minor children, if no other court has determined, or is determining, the allocation of parental rights and responsibilities for the minor children or parenting time rights;

(5) A requirement that the respondent maintain support, if the respondent customarily provides for or contributes to the support of the family or household member, or if the respondent has a duty to support the petitioner or family or household member;

(6) A requirement that the respondent, petitioner, victim of domestic violence, or any combination of those persons, seek counseling;

(7) A requirement that the respondent refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member;

(8) A grant of other relief that the court considers equitable and fair, including, but not limited to, an order that the respondent permit the use of a motor vehicle by the petitioner or other family or household member and the apportionment of household and family personal property.

A protection order or consent agreement approved by a court under R.C. 3113.31 generally is valid for a specific time period, not to exceed five years from the date of issuance or approval (R.C. 3113.31(E)(3)(a)).

Current law defines a "family or household member" for purposes of the law dealing with civil protection orders as any of the following (R.C. 3113.31(A)(3)):

(1) Any of the following persons who is residing or has resided with the respondent:

(a) A spouse, person living as a spouse, or former spouse of the respondent;

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

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

(2) The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent.

### **Operation of the bill**

The bill expands the definition of "family or household member" to include a foster parent; thus, a foster parent could apply for a civil protection order or consent agreement under the procedure discussed above in "**Existing law.**" (R.C. 3113.31(A)(3)(a)(ii).)

The bill also allows victims of domestic violence to apply for a civil protection order or consent agreement in the juvenile division of the court of common pleas of the county in which the person to be protected resides if the respondent is under 18 years old. (R.C. 3113.31(A)(2).)

The bill requires that any civil protection order issued or consent agreement approved include a provision that the court will expunge all of the records of the proceeding in which the order is issued or agreement approved not later than 30 days after the respondent attains the age of 18 years unless the petitioner provides the court with evidence that the respondent has not complied with all of the terms of the order or agreement. The protection order or consent agreement must specify the date when the respondent attains the age of 18 years. (R.C. 3113.31(E)(9).)

The bill provides that a person who violates a civil protection order or consent agreement is subject to a criminal prosecution or a *delinquent child proceeding* (added by the bill) for the offense of "violating a protection order" if a violation of the order or agreement constitutes such an offense or to punishment for contempt of court (R.C. 3113.31(L)(1)).

The bill clarifies that nothing under the Domestic Violence Civil Protection Order Law prohibits the domestic relations division of a court of common pleas (in counties that have a domestic relations division) or a court of common pleas (in counties that do not have a domestic relations division) from designating a minor child as a protected party on a protection order or consent agreement (R.C. 3113.31(O)).

### **Expungement of juvenile court records in protection order proceedings**

The bill requires a juvenile court that issues a protection order or approves a consent agreement against a minor under the new procedure for the issuance of

criminal protection orders or the procedure for the issuance of civil domestic violence protection orders to expunge all of the records of the proceeding in which the order was issued or the agreement approved not later than 30 days after the person against whom the protection order was issued or the consent agreement approved attains the age of 18 years if the court determines that the person has complied with all of terms of the order or agreement. The bill requires a juvenile court to expunge all of the records in the applicable proceeding if it does not issue any criminal protection order or civil domestic violence protection order or approve any consent agreement in the proceeding. It applies to the above expungement provisions the provision in existing law that provides that after the records have been expunged, the person who is the subject of the expunged records properly may, and the court must, reply that no record exists with respect to the person upon any inquiry in the matter. (R.C. 2151.358(D) and (E).)

### **Juvenile court's exclusive jurisdiction over new protection order procedure and civil protection orders and consent agreements for victims of domestic violence**

The bill specifies that the juvenile court has exclusive original jurisdiction to hear and determine petitions for a protection order against a child under the new procedure described above or existing R.C. 3113.31 (civil domestic violence protection orders and consent agreements) and to enforce a protection order issued or consent agreement approved under that procedure or section against a child until a date certain but not later than the date the child is 18 years of age. The bill also specifies that, in exercising its exclusive original jurisdiction with respect to that proceeding or section in which the respondent is a child, the juvenile court retains all dispositional powers consistent with existing Rules of Juvenile Procedure and may also exercise its discretion to adjudicate the proceedings, including the issuance of protection orders or the approval of consent agreements. (R.C. 2151.23(A)(16) and (J).)

### **Inclusion of foster parents as victims under the domestic violence laws**

#### **The criminal offense of domestic violence**

##### **Existing law**

Existing law prohibits a person from doing any of the following (R.C. 2919.25):

- (1) Knowingly causing or attempting to cause physical harm to a family or household member (a violation of which is a M1, F4, or F3);
- (2) Recklessly causing serious physical harm to a family or household member (a violation of which is a M1, F4, or F3);

(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 which is a M4, M2, or M1).

A violation of any of these prohibitions is the offense of "domestic violence."

Current law defines a "family or household member" as any of the following persons (R.C. 2919.25(F)(1)):

(1) Any of the following persons who is residing or has resided with the offender;

(a) A spouse, person living as a spouse, or a former spouse of the offender;

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

(c) A parent or a child of a spouse, person living as a spouse, or a 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.

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

#### **Operation of the bill**

The bill adds a foster parent to the definition of "family or household member," so that a "family or household member" means, among other persons, a parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender (R.C. 2919.25(F)(1)(a)(ii)).

#### **Shelters for domestic violence victims**

##### **Existing law**

R.C. 3113.33 to 3113.40 establishes a funding mechanism for shelters for domestic violence victims. Under these provisions, "domestic violence" means attempting to cause or causing bodily injury to a family or household member by threat of force in fear of imminent physical harm (R.C. 3113.33(A).) Current law defines a "family or household member" similarly to the definition in the offense of domestic violence and the domestic violence civil protection statute as meaning one of the following (R.C. 3113.33(B)):

(1) Any of the following who is residing or has resided with the person committing the domestic violence:

(a) A spouse, a person living as a spouse, or a former spouse of the person committing the domestic violence;

(b) A parent or child of the person committing the domestic violence, or another person related by consanguinity or affinity to the person committing the domestic violence;

(c) A parent or a child of a spouse, person living as a spouse, or former spouse of the person committing domestic violence, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person committing domestic violence.

(d) The dependents of any person listed in (a), (b), or (c), above.

(2) The natural parent of any child of whom the person committing the domestic violence is the other natural parent or is the putative other natural parent.

#### **Operation of the bill**

The bill expands the definition of "family or household member" in that law to include a foster parent. (R.C. 3113.33(B)(1)(b).)

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## **COMMENT**

1. "Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age (R.C. 2950.01(A)):

(a) A violation of R.C. 2907.02 (rape), R.C. 2907.03 (sexual battery), R.C. 2907.05 (gross sexual imposition), R.C. 2907.06 (sexual imposition), R.C. 2907.07 (importuning), R.C. 2907.08 (voyeurism), R.C. 2907.21 (compelling prostitution), R.C. 2907.32 (pandering obscenity), R.C. 2907.321 (pandering obscenity involving a minor), R.C. 2907.322 (pandering sexually oriented matter involving a minor), or R.C. 2907.323 (illegal use of minor in nudity-oriented material or performance);

(b) A violation of R.C. 2907.04 (unlawful sexual conduct with a minor) when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of R.C. 2907.02, R.C. 2907.03, or R.C. 2907.04 or a violation of former R.C. 2907.12 (felonious sexual penetration);

(c) A violation of R.C. 2907.04 when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct or when the

offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of R.C. 2907.02, R.C. 2907.03, or R.C. 2907.04 or a violation of former R.C. 2907.12;

(d) A violation of R.C. 2903.01 (aggravated murder), R.C. 2903.02 (murder), or R.C. 2903.11 (felonious assault) when the violation was committed with a sexual motivation;

(e) A violation of R.C. 2903.04(A) (involuntary manslaughter by causing the death of another or the unlawful termination of another's pregnancy as a proximate result of committing or attempting to commit a felony) when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(f) A violation of R.C. 2903.211(A)(3) (menacing by stalking if the victim of the offense is an officer or employee of a public children services agency or a private child placing agency);

(g) A violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping) when the offense is committed with a sexual motivation;

(h) A violation of R.C. 2905.01(A)(4) (kidnapping with intent to engage in sexual activity against victim's will);

(i) A violation of R.C. 2905.01(B) (kidnapping involving the removal or restraint of the victim) when the victim of the offense is under 18 years of age and the offender is not a parent of the victim of the offense;

(j) A violation of R.C. 2905.02(B) (abduction with sexual motivation), R.C. 2905.03(B) (unlawful restraint with sexual motivation), R.C. 2905.05(B) (criminal child enticement with sexual motivation), R.C. 2919.22(B)(5) (endangering children committed by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter);

(k) A violation of any former Ohio law, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in (1), (2), (3), (4), (5), (6), (7), (8), (9), or (10) above;



(l) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) above.

2. A person commits "felonious assault" by doing any of the following (R.C. 2903.11(A) and (B)):

(a) Knowingly causing serious physical harm to another or to another's unborn;

(b) Knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance;

(c) With knowledge that the person has tested positive as a carrier of a virus that causes AIDS, knowingly doing any of the following:

(i) Engaging in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;

(ii) Engaging in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes AIDS;

(iii) Engaging in sexual conduct with a person under 18 years of age who is not the spouse of the offender.

3. A person commits "aggravated assault" if, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, knowingly causes serious physical harm to another or another's unborn or causes or attempts to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance (R.C. 2903.12(A)).

4. A person commits "assault" by knowingly causing or attempting to cause physical harm to another or to another's unborn or recklessly causing serious physical harm to another or to another's unborn (R.C. 2903.13(A) and (B)).

5. A person commits "aggravated menacing" by knowingly causing another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family (R.C. 2903.21(A)).

6. A person commits "menacing by stalking" by, as a result of engaging in a pattern of conduct, knowingly causing another person to believe that the offender will

cause physical harm to the other person or cause mental distress to the other person; through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, posting a message with purpose to urge or incite another to knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person; or violating the above-described provisions with a sexual motivation (R.C. 2903.211(A)).

7. A person commits "menacing" by knowingly causing another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family (R.C. 2903.22(A)).

8. A person commits "aggravated trespass" by entering or remaining on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to the other person (R.C. 2911.211(A)).

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## HISTORY

ACTION	DATE
Introduced	02-17-09
Reported, H. Civil & Commercial Law	06-17-09

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