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Substitute Bill Comparative Synopsis

Sub. H.B. 3

133rd General Assembly

House Criminal Justice

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Corrected Version

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (I_133_0147-8)	Latest Version (I_133_0147-12)
Emergency protection orders	
Allows a peace officer responding to an incident of domestic violence who has reasonable cause to believe that a crime involving domestic violence has occurred to file a motion for an emergency protection order with the court, at the request of the victim of the offense, and requires the peace officer filing the motion to serve notice of the order and a copy of any order issued to the victim and the alleged offender (<i>R.C. 2919.26(C)(1)(b) and 2935.032(C)(4)</i>).	Allows a law enforcement officer, on behalf of and with the consent of a victim of domestic violence, to request an emergency protection order from a judicial officer during any period of time that the court is not open for regular business. The request may be made orally or in writing based on the sworn statement of the law enforcement officer and an allegation of either of the following by the person seeking the order (<i>R.C. 2919.261(A)</i>):

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<p>Requires a judge of the court or a designated magistrate to be available to accept a petition for an emergency protection order and to hold an <i>ex parte</i> hearing 24 hours a day and seven days a week (R.C. 2919.26(C)(1)(b)).</p>	<p>--That the victim is in immediate and present danger of domestic violence based on the officer's observations and an allegation of a recent incident of domestic violence;</p> <p>--That a child of the victim is in immediate and present danger, based on the officer's observations and an allegation of a recent incident of domestic violence.</p> <p>No similar requirement.</p>
<p>Allows the court to issue an emergency protection order containing any of the terms that an existing law temporary protection order may contain, if the court finds that the safety and protection of the complainant, alleged victim, or any other family or household member of the alleged victim may be impaired by the continued presence of the alleged offender. Under continuing law, a temporary protection order contains terms designed to ensure the safety and protection of the protected person, including a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of a protected person as well as other terms related to companion animals owned by a protected person. (R.C. 2919.26(C)(1)(b) and (2).)</p>	<p>Requires the court to issue an emergency protection order if the court finds probable cause, based on the request, to believe that the victim or child of the victim is in immediate danger based on an allegation of a recent incident of domestic violence. An order may contain any of the following terms (R.C. 2919.261(B) and (C)):</p> <p>--That the alleged domestic violence offender refrain from abusing, threatening, harassing, stalking, or forcing sexual relations on a protected person;</p> <p>--That the alleged domestic violence offender refrain from entering or interfering with the residence, school, business, place of employment, child care provider, or child day-care center of a protected person;</p> <p>--That the alleged domestic violence offender refrain from initiating or having any contact with a protected person or the residence, school, business, place of employment, child care provider, or child day-care center of a protected person;</p> <p>--That the alleged domestic violence offender refrain from being within 500 feet of a protected person.</p>

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<p>Modifies the language on the form for a motion for a temporary protection order to also allow for the filing of an emergency protection order (<i>R.C. 2919.26(B)</i>).</p> <p>If the court issues an emergency protection order as an <i>ex parte</i> order, requires the court to conduct, as soon as possible after the issuance of the order, a hearing in the presence of the alleged offender not later than the next day on which the court is scheduled to conduct business (<i>R.C. 2919.26(D)(2)</i>).</p> <p>An emergency protection order is effective only until the disposition of the criminal proceeding arising out of the complaint or incident of domestic violence upon which the order is based or on the issuance of a domestic violence civil protection order arising out of the same activities that were the basis for the criminal complaint or incident of the criminal complaint on which the order is based (<i>R.C. 2919.26(E)(2)</i>).</p>	<p>Requires a court that orders an emergency protection order to communicate the terms of the order by reliable electronic means to an officer of the appropriate law enforcement agency (<i>R.C. 2919.261(D)</i>).</p> <p>No provision.</p> <p>An emergency protection order is instead effective until the earliest of the following (<i>R.C. 2919.261(E)</i>):</p> <ul style="list-style-type: none"> ▪ 96 hours after the order was issued; ▪ 5:00 PM of the first day that the court is open for business after the day the order was issued; ▪ The time at which the court, at the request of the petitioner, terminates the order.
Domestic violence temporary protection orders	
<p>Not later than 90 days after the effective date of the bill, requires a judge or magistrate of a court that handles domestic violence temporary protection orders (DVTPO) under continuing law to be available to accept a DVTPO petition and to hold an <i>ex parte</i> hearing 24 hours a day and 7 days a week (<i>R.C. 3113.31(D)(1)</i>).</p>	<p>No provision.</p>

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No provision.	<p>Allows for a petition for a DVTPO to include any of the following information, which the court must consider (<i>R.C. 3113.31(C)(2)</i>):</p> <ul style="list-style-type: none"> ▪ An allegation that the respondent has previously engaged in domestic violence against a person to be protected; ▪ Any previous domestic violence conviction or plea of guilty to domestic violence by the respondent where the victim was a person to be protected by the order.
Ohio Rules of Evidence	
<p>Makes several changes to Ohio’s Rules of Evidence as applicable to criminal cases involving domestic violence and to civil actions based on an injury to person based on a criminal act of domestic violence (<i>R.C. 2307.602, 2307.603, 2945.483, and 2945.484</i>).</p>	<p>Removes the new Revised Code sections that modify Ohio’s Rules of Evidence and instead, in uncodified language, respectfully requests the Ohio Supreme Court to review the Ohio Rules of Evidence to consider how the Rules may better aid victims of domestic violence without diminishing the fundamental fairness to alleged perpetrators of domestic violence (<i>Section 4</i>).</p>
Domestic violence high risk teams and advocacy services	
<p>Allows the chief law enforcement officer of each agency, instrumentality, or political subdivision served by a peace officer to create a Domestic Violence High Risk Team (DVHRT) if no appropriate local or regional domestic violence advocacy services exist and requires high risk victims of domestic violence to be referred to the DVHRT or to local or regional domestic violence advocacy services (<i>R.C. 2935.033(B) and 2935.032(A)(2)(e)</i>).</p>	<p>Removes provisions in the bill allowing for the creation of DVHRTs and requires that high risk victims of domestic violence be referred to local or regional domestic violence advocacy services (<i>R.C. 2935.033(B) and 2935.032(A)(2)(e)</i>).</p>

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<p>Requires the Attorney General to adopt rules to require every peace officer and trooper who handles domestic violence complaints to complete annual professional training that includes, among other items, the referral of high risk victims to a DVHRT <i>or</i> to a local or regional domestic violence advocacy service (R.C. 109.803(B)(4)).</p>	<p>Instead requires the training biennially and removes the requirement that the training include referral of high risk victims to a DVHRT (R.C. 109.803(B)(4)).</p>
Aggravated murder	
<p>Includes as an aggravating circumstance used for determining whether a person convicted of aggravated murder might face a sentence of death the fact that the victim was a family or household member, that the offender had previously been convicted of domestic violence against that family or household member, and that the victim of the offense had not previously physically harmed, sexually assaulted, or threatened the offender with imminent physical harm, serious physical harm, or sexual violence (R.C. 2929.04(A)(11)).</p>	<p>No provision.</p>
Strangulation	
<p>Expands the offense of “domestic violence” to also prohibit knowingly impeding the normal breathing or blood circulation of a family or household member by applying pressure to the throat or neck, or by blocking the nose or mouth, of the family or household member (R.C. 2919.25(D)).</p> <p>Specifies that it is not required in a prosecution under the strangulation prohibition to allege or prove that the family or household member who is the victim suffered physical harm or serious physical harm or visible injury (R.C. 2919.25(G)).</p>	<p>Instead prohibits <i>recklessly</i> impeding the normal breathing or circulation of the blood of a family or household member by applying pressure to the throat or neck, or by <i>covering</i> the nose or mouth, of the family or household member (R.C. 2919.25(D)).</p> <p>Adds “that there was an intent to kill or protractedly injure the family or household member” to the list of circumstances not required to be alleged or proven in a prosecution under the strangulation prohibition (R.C. 2919.25(G)).</p>

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<p>Requires peace officers to refer incidents of domestic violence that involve an allegation of strangulation to the DVHRT or to local or regional domestic violence advocacy services (R.C. 2935.033(C)(1)).</p>	<p>Removes the option to refer these cases to the DVHRT and requires the peace officer to provide the victim of an alleged strangulation with the following warning (R.C. 2935.033(C)(1)):</p> <p>“I have a duty to warn you that strangulation is serious and can cause internal injuries, brain damage, and delayed health consequences such as strokes, thyroid issues, miscarriage, and death. Research shows that if you are strangled one time, you are more likely to be killed by your partner. I strongly encourage you to seek immediate medical attention at an emergency department and to ask for support from an advocate.”</p>
<p>Lethality assessment screening tool</p>	
<p>Requires each agency, instrumentality, or political subdivision that is served by a peace officer to adopt a policy requiring peace officers to screen victims of domestic violence or violating a protection order using an evidence-based lethality assessment screening tool to determine if the case should be referred to local or regional domestic violence advocacy services or to the appropriate DVHRT (R.C. 2935.032(A)(2)(e)).</p> <p>No provision.</p>	<p>Retains the requirement to adopt a policy requiring the screening, but requires referral to local or regional domestic violence advocacy services (R.C. 2935.032(A)(2)(e)).</p> <p>Requires each agency, instrumentality, or political subdivision that is served by a peace officer to adopt a policy requiring peace officers to submit the results of the screening to the court and prosecuting attorney having jurisdiction over any criminal complaint filed in connection with the offense (R.C. 2935.032(A)(2)(f)).</p>

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No provision.	Requires a court to consider the results of a lethality assessment screening tool in setting bail and in sentencing for felony and misdemeanor offenses (<i>R.C. 2937.23(A)(3), 2929.12(G), and 2929.22(B)(1)(h)</i>).
Aisha’s Law	
No provision.	Names the act Aisha’s Law (<i>Section 5</i>).
Domestic Violence Drop Policy Study Committee	
No provision.	Creates the Domestic Violence Drop Policy Study Committee, consisting of ten members appointed by the Speaker and Minority Leader of the House of Representatives and tasked with examining policies to protect victims of domestic violence throughout the judicial process (<i>Section 6</i>).
No-drop policies	
Encourages prosecuting attorneys, in uncodified language, to employ no-drop policies in an effort to curb instances of domestic violence (<i>Section 3</i>).	Instead encourages prosecuting attorneys, in uncodified language, to do all of the following in domestic violence cases (<i>Section 3</i>): <ul style="list-style-type: none"> ▪ Consider the totality of the circumstances; ▪ Review all of the evidence in the case; ▪ Resist seeking voluntary dismissal or an entry of nolle prosequi based solely on the victim’s wishes, unless justice demands otherwise.

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Appropriation	
No provision.	Increases, in the Attorney General’s operating budget, the amount appropriated from the Ohio Peace Officer Training Academy Fee Fund (Fund 4210) to line item 055617, Police Officers’ Training Academy Fee, by \$150,000 in FY 2020, from \$2,182,062 to \$2,332,062 (<i>Sections 7 and 8</i>).