



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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(As Reported by S. Judiciary)

Reps. Sykes and Manning, Riedel, O'Brien, Kent, Craig, Lanese, Boyd, R. Smith, Hill, Ashford, Dever, Holmes, Leland, McColley, Perales, G. Johnson, Antonio, West, Cera, Rogers, Retherford, Sheehy, Pelanda, Ramos, Butler, Henne, Boccieri, Sprague, Boggs, Fedor, Householder, DeVitis, Celebrezze, Rezabek, Anielski, Arndt, Brenner, Carfagna, Clyde, Cupp, Duffey, Edwards, Gavarone, Green, Greenspan, Hagan, Hambley, Howse, Ingram, Kelly, Koehler, Landis, Lepore-Hagan, Miller, Patterson, Reece, Reineke, Ryan, Scherer, Slaby, K. Smith, Stein, Strahorn, Sweeney

BILL SUMMARY

- Expands the law governing the issuance of domestic violence civil protection orders (DVCPOs) to authorize a court to issue such an order (or approve a consent agreement) to protect a "person alleging dating violence with whom the respondent is or was in a dating relationship" from domestic violence by the respondent.
- Makes the existing procedures regarding the issuance of a DVCPO, the penalty for violating such an order, an index of such orders, and the registration and enforcement of such orders apply with respect to the issuance of a dating relationship DVCPO under the bill.
- Requires the Attorney General to include in the crime victims' bill of rights pamphlet notice of the right of a petitioner alleging domestic violence in a dating relationship to seek a DVCPO under the bill's provisions described above.
- For purposes of the funding mechanism for shelters for victims of domestic violence, provides that a person who is the victim of bodily injury or an attempt to cause bodily injury, or who is placed by threat of force in fear of imminent physical harm, and who is or was in a dating relationship with the actor has access to the shelters.

* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- In the notice provided to the parties upon the issuance of a DVCPO or consent agreement or of another type of protection order or consent agreement that it may be unlawful under federal law to possess or purchase a firearm or ammunition, specifies that the possible ban is for the duration of the order or agreement.

TABLE OF CONTENTS

Domestic violence civil protection order for petitioner in a dating relationship with the respondent.....	2
Overview.....	2
Definitions.....	3
Petition for protection order.....	3
<i>Ex parte</i> order.....	4
Full hearing.....	5
Procedure.....	5
Remedies.....	6
Against respondent.....	6
Against petitioner.....	8
Nonexclusivity.....	8
Modification and termination of protection order.....	8
Sealing of order.....	10
Notice of order and possible firearms restriction.....	10
Fees and costs.....	11
Offense of "violating a protection order" and contempt of court.....	11
Registration of protection orders.....	12
Law enforcement responsibilities.....	12
Victims' bill of rights pamphlet.....	13
Access to funded domestic violence shelters.....	13
Existing protection orders and firearms warning.....	14
Types of orders.....	14
Notice of possible firearm and ammunition restriction.....	15

CONTENT AND OPERATION

Domestic violence civil protection order for petitioner in a dating relationship with the respondent

Overview

The bill expands the law governing the issuance of domestic violence civil protection orders (DVCPOs) to authorize a common pleas court to issue such a civil protection order (or approve a consent agreement) to protect a "person with whom the respondent is or was in a dating relationship" from domestic violence by the respondent. The existing procedures for the issuance of a DVCPO apply with respect to the issuance of a dating relationship DVCPO under the bill.

Definitions

The bill expands the definition of "domestic violence" that applies with respect to DVCPOs and enacts several other definitions that apply with respect to the issuance of a dating relationship DVCPO under the bill. Under the bill, for purposes of the law governing DVCPOs:¹

"Domestic violence" means, in addition to the conduct currently included within the meaning of the term, the occurrence of one or more of the following acts against a "person with whom the respondent is or was in a dating relationship" (see below): (1) attempting to cause or recklessly causing bodily injury, (2) placing another person by the threat of force in fear of imminent serious physical harm or committing a violation under the offense of either "menacing by stalking"² or "aggravated trespass,"³ (3) committing any act with respect to a child that would result in the child being an abused child, as defined in the Juvenile Code,⁴ or (4) committing a sexually oriented offense, as defined in the Sex Offender Registration and Notification Law.⁵ Currently, "domestic violence" means the occurrence of one or more of the acts identified in clauses (1) to (4) of the preceding sentence against a family or household member – the bill retains this provision within the definition of the term.

"Person with whom the respondent is or was in a dating relationship" means an adult who, at the time of the conduct in question, is in a dating relationship with the respondent who also is an adult or who, within the 12 months preceding the conduct in question, has had a dating relationship with the respondent who also is an adult.

"Dating relationship" means a relationship between individuals who have, or have had, a relationship of a romantic or intimate nature; it does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

Petition for protection order

The bill authorizes a person with whom the respondent is or was in a dating relationship to seek relief under the DVCPO provisions on that person's own behalf by filing a petition with the domestic relations division of the common pleas court or the common pleas court in counties without a domestic relations division. The court has

¹ R.C. 3113.31(A).

² R.C. 2903.211, not in the bill.

³ R.C. 2911.211, not in the bill.

⁴ R.C. 2151.031, not in the bill.

⁵ R.C. 2950.01, not in the bill.



jurisdiction with respect to all proceedings on the petition.⁶ The petition must include the following:⁷

- An allegation that the respondent engaged in domestic violence against a person with whom the respondent is or was in a dating relationship, 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;
- The facts upon which the court may conclude that a dating relationship existed between the person to be protected and the respondent;
- A request for DVCPO relief.

Ex parte order

Existing law provides for the issuance in certain circumstances of *ex parte* DVCPOs for the protection of a person who is a family or household member of the respondent. The bill extends those provisions to also apply with respect to the protection of a person with whom the respondent is or was in a dating relationship. Under the bill, if a petitioner requests an *ex parte* order with respect to the protection of a person with whom the respondent is or was in a dating relationship, the court must hold an *ex parte* hearing on the same day that the petition is filed. The court, for good cause shown, may enter any temporary orders, with or without bond, necessary to protect the person with whom the respondent is or was in a dating relationship from domestic violence. "Immediate and present danger" of domestic violence to the person with whom the respondent is or was in a dating relationship constitutes good cause. Immediate and present danger includes situations in which the respondent has threatened that person with bodily harm or a sexually oriented offense, or in which the respondent previously has been convicted of or been adjudicated a delinquent child for an offense that constitutes domestic violence against the person with whom the respondent is or was in a dating relationship.⁸

⁶ R.C. 3113.31(A) to (C).

⁷ R.C. 3113.31(C).

⁸ R.C. 3113.31(D)(1).



An *ex parte* order does not expire because of a failure to serve notice of the full hearing (see below) upon the respondent before the date set for the full hearing or because the court grants a continuance of the hearing.⁹

Full hearing

If the court, after an *ex parte* hearing with respect to a petition for the protection of a person with whom the respondent is or was in a dating relationship, issues any protection order granting relief (see "**Relief**," below), it must schedule a full hearing, with notice to the respondent and an opportunity to be heard, for a date that is within ten court days after the *ex parte* hearing. The court must hold the full hearing as scheduled, unless it grants a continuance of the hearing for any of the following reasons:¹⁰

- The respondent was not served, prior to the date of the full hearing, with the petition and notice of the full hearing;
- The parties consent to the continuance;
- The continuance is needed to allow a party to obtain counsel;
- The continuance is needed for other good cause.

If a petitioner does not request an *ex parte* order with respect to the protection of a person with whom the respondent is or was in a dating relationship, or if such a petitioner requests an *ex parte* order but the court does not issue one after an *ex parte* hearing, the court must proceed as in a normal civil action and grant a full hearing on the matter.¹¹

Procedure

Any proceeding under the bill with respect to a petition for the protection of a person with whom the respondent is or was in a dating relationship must be conducted in accordance with the Rules of Civil Procedure, except that a DVCPO may be obtained with or without bond. An order under the bill with respect to such a petition, other than an *ex parte* order, that grants or denies an application for a DVCPO, approval of a

⁹ R.C. 3113.31(D)(2)(b).

¹⁰ R.C. 3113.31(D)(2)(a).

¹¹ R.C. 3113.31(D)(3).



consent agreement, or modification or termination of a protection order or consent agreement is a final, appealable order.¹²

In all stages of a proceeding with respect to such a petition under the bill, a petitioner may be accompanied by a victim advocate (a person who provides support and assistance for the petitioner).¹³

Remedies

Against respondent

After an *ex parte* or full hearing with respect to a petition for the protection of a person with whom the respondent is or was in a dating relationship, the court may grant any DVCPO, with or without bond, or approve any consent agreement to bring about a cessation of domestic violence against the persons with whom the respondent is or was in a dating relationship. The DVCPO or agreement may:¹⁴

- Direct the respondent to refrain from abusing or from committing sexually oriented offenses against the persons with whom the respondent is or was in a dating relationship;
- Require the respondent, petitioner with whom the respondent is or was in a dating relationship, victim of domestic violence, or any combination of those persons, to seek counseling;
- Require the respondent to refrain from entering the residence, school, business, or place of employment of the petitioner with whom the respondent is or was in a dating relationship;
- Require that the respondent not remove, damage, hide, harm, or dispose of any companion animal, as defined by existing law, owned or possessed by the petitioner with whom the respondent is or was in a dating relationship;
- Authorize the petitioner with whom the respondent is or was in a dating relationship to remove a companion animal owned by that petitioner from the possession of the respondent;

¹² R.C. 3113.31(G).

¹³ R.C. 3113.31(A)(5) and (M).

¹⁴ R.C. 3113.31(E)(1) and (A)(7), by reference to R.C. 959.131, not in the bill.



- Require a wireless service transfer in accordance with R.C. 3113.45 to 3113.459;
- Grant other relief that the court considers equitable and fair, including ordering the respondent to permit the use of a motor vehicle by the petitioner with whom the respondent is or was in a dating relationship.

If a DVCPO was issued in a prior action involving the respondent and the petitioner with whom the respondent is or was in a dating relationship, the court may include in a DVCPO a prohibition against the respondent returning to the residence, school, business, or place of employment.¹⁵

A DVCPO issued or consent agreement approved by the court under the bill with respect to a petition for protection of a person with whom the respondent is or was in a dating relationship remains valid until a date certain, but not later than five years from the date of issuance or approval, or not later than the date a respondent who is under age 18 turns 19, unless modified or terminated (see "**Termination and modification**," below). A DVCPO or consent agreement may be renewed in the same manner in which the original order was issued or consent agreement was approved.¹⁶

If a DVCPO or consent agreement issued or approved under the bill with respect to a petition for protection of a person with whom the respondent is or was in a dating relationship requires the respondent to refrain from entering the residence, school, business, or place of employment of the petitioner, the order or agreement must state clearly that the order or agreement cannot be waived or nullified by an invitation to the respondent from that petitioner to enter the residence, school, business, or place of employment or by the respondent's entry into one of those places otherwise upon the consent of the petitioner. This provision does not limit the court's discretion to determine that a respondent charged with a criminal offense of "violating a protection order,"¹⁷ a violation of a substantially equivalent municipal ordinance, or contempt of court, for an alleged violation of a DVCPO or consent agreement did not commit the violation or was not in contempt of court.¹⁸

¹⁵ R.C. 3113.31(E)(2) and (7).

¹⁶ R.C. 3113.31(E)(3).

¹⁷ R.C. 2919.27, not in the bill.

¹⁸ R.C. 3113.31(E)(7).



Against petitioner

A court may not issue a DVCPO under the bill that requires a petitioner who is a person with whom the respondent is or was in a dating relationship to do or to refrain from doing an act that the court may require a respondent to do or to refrain from doing (see "**Against respondent**," above) unless all of the following apply:¹⁹

- The respondent files a separate petition for a DVCPO under the bill;
- The petitioner is served 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 the notice;
- If the petitioner has requested an *ex parte* order, the court does not delay any hearing regarding that request in order to consolidate the hearing with a hearing on the respondent's petition;
- After a full hearing at which the respondent presents evidence in support of the request for a DVCPO and the petitioner is afforded an opportunity to defend against that evidence, the court determines that the petitioner has committed an act of domestic violence or has violated a TPO issued under R.C. 2919.26, that both the petitioner and the respondent acted primarily as aggressors, and that neither the petitioner nor the respondent acted primarily in self-defense.

Nonexclusivity

The remedies and procedures provided by the bill with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship are in addition to, and not in lieu of, any other available civil or criminal remedies.²⁰

Modification and termination of protection order

The bill authorizes a court that issues a DVCPO or approves a consent agreement under its provisions with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship after a full hearing to modify or terminate the order or agreement. Either the petitioner or the respondent may bring a motion for modification or termination. Notice of the motion must be given in accordance with the Civil Rules. If the petitioner has requested that the petitioner's

¹⁹ R.C. 3113.31(E)(4).

²⁰ R.C. 3113.31(G).



address be kept confidential, the court may not disclose the address to the respondent or anyone else, except as otherwise required by law. The moving party has the burden of proving, by a preponderance of the evidence, that modification or termination is appropriate either because the order or agreement is no longer needed or because the terms of the order or agreement are no longer appropriate. If the respondent moves for modification or termination and the court denies the motion, it may assess costs against the respondent for the filing of the motion.²¹

In considering whether to modify or terminate such a DVCPO or consent agreement, the court must consider all relevant factors, including the following:²²

- Whether the petitioner consents to modification or termination;
- Whether the petitioner fears the respondent;
- The current nature of the relationship between the petitioner and the respondent;
- The circumstances of the petitioner and respondent, including the relative proximity of the petitioner's and respondent's workplaces and residences and whether they have minor children together;
- Whether the respondent has complied with the terms and conditions of the original order or agreement;
- Whether the respondent has a continuing involvement with illegal drugs or alcohol;
- Whether the respondent has been convicted of or been adjudicated a delinquent child for an offense of violence since the issuance of the order or approval of the agreement;
- Whether any other protection orders, consent agreements, restraining orders, or no contact orders have been issued against the respondent under the law of Ohio or any other state;
- Whether the respondent has participated in any domestic violence treatment, intervention program, or other counseling addressing domestic violence and whether the respondent has completed the treatment, program, or counseling;

²¹ R.C. 3113.31(E)(8)(a), (b), and (e).

²² R.C. 3113.31(E)(8)(c).

- The time that has elapsed since the order was issued or the agreement was approved;
- The age and health of the respondent;
- When the last incident of abuse, threat of harm, or commission of a sexually oriented offense occurred or other relevant information concerning the safety and protection of the petitioner or other protected parties.

If the court modifies or terminates a DVCPO or consent agreement as described above, it must issue copies of the modified or terminated order or agreement (see "**Notice of order and possible firearms restriction**," below). A petitioner may also provide notice of the modification or termination to the judicial and law enforcement officials in any county other than the county in which the order or agreement is modified or terminated (see "**Registration of protection orders**," below).²³

Sealing of order

The bill requires that a DVCPO issued or consent agreement approved under its provisions with respect to the protection of a person with whom the respondent is or was in a dating relationship state that the court will automatically seal all of the records of the proceeding in which the order is issued or agreement approved when the respondent reaches age 19 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 order or agreement must specify the date when the respondent turns 19.²⁴

Notice of order and possible firearms restriction

The bill requires the court to issue to specified persons a copy of any DVCPO or consent agreement that is issued, approved, modified, or terminated under the bill with respect to the protection of a person with whom the respondent is or was in a dating relationship. The court must issue the specified documents to the petitioner, the respondent, and all law enforcement agencies that have jurisdiction to enforce the order or agreement and must direct that a copy of an order be delivered to the respondent on the day the order is entered.²⁵

²³ R.C. 3113.31(E)(8)(d).

²⁴ R.C. 3113.31(E)(9).

²⁵ R.C. 3113.31(F)(1).

When the court issues a DVCPO or approves an agreement as described above, it must provide the parties with oral or written notice, the language of which is specified in the bill, that as a result of the order or agreement it may be unlawful under federal law for one or both of the parties to possess or purchase a firearm or ammunition for the duration of the order or agreement.²⁶

Fees and costs

In general, regardless of whether a DVCPO is issued or a consent agreement is approved by a court of another county or state, existing law, unchanged by the bill, prohibits any court or unit of state or local government from charging a petitioner any fee, cost, deposit, or money in connection with the filing of a petition under the bill's provisions for the protection of a person with whom the respondent is or was in a dating relationship or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a DVCPO, consent agreement, or witness subpoena or for obtaining a certified copy of a DVCPO or consent agreement. However, whether or not a DVCPO is issued or a consent agreement is approved under the bill with respect to a petition for the protection of a person with whom the respondent is or was in a dating relationship, the court may assess costs against the respondent in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a DVCPO, consent agreement, or witness subpoena or for obtaining a certified copy of a DVCPO or consent agreement. Also, if the respondent under a DVCPO or agreement issued with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship moves for modification or termination of it and the court denies the motion, the court may assess costs against the respondent for filing the motion.²⁷

Offense of "violating a protection order" and contempt of court

Under existing law, unchanged by but applicable to the bill, a person who recklessly violates terms of a DVCPO issued or a consent agreement approved under the bill with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship is guilty of the existing offense of "violating a protection order," generally a first degree misdemeanor but a third or fifth degree felony in specified circumstances. The person also is subject to punishment for contempt of court.²⁸

²⁶ R.C. 3113.31(F)(2).

²⁷ R.C. 3113.31(E)(8)(e) and (J).

²⁸ R.C. 2919.27(A) and (B), not in the bill, and R.C. 3113.31(L).



Registration of protection orders

Existing law, unchanged by but applicable to the bill, authorizes a petitioner who obtains a DVCPO or consent agreement under the bill with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship to give notice of the issuance or approval of the order or agreement to the judicial and law enforcement officials in any county other than the one in which the issuing or approving court is located by registering the order or agreement in the other county and filing a copy of the registered order or registered agreement with a law enforcement agency in the other county. 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 county in Ohio by registering the order under a specified provision of existing law and filing a copy of the registered order with a law enforcement agency in that county.²⁹

Under existing law, unchanged by but applicable to the bill, a petitioner may register a temporary protection order, DVCPO or other protection order, or consent agreement in a county other than the one in which the issuing or approving court is located by presenting a certified copy of the order or agreement to the clerk of the court of common pleas, municipal court, or county court in the other county. The clerk must then place an endorsement of registration on the order or agreement and give the petitioner a copy of the order or agreement bearing the proof of registration. The clerk of each common pleas, municipal, and county court must maintain a registry of certified copies of temporary protection orders, protection orders, or consent agreements that have been registered with the clerk.³⁰

Law enforcement responsibilities

Existing law, which applies to DVCPOs and consent agreements issued or approved under the bill with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship, imposes the following responsibilities on law enforcement agencies and offenders with respect to the orders and agreements:

(1) All law enforcement agencies must maintain an index for the DVCPOs and approved consent agreements provided to them as described above by the issuing or

²⁹ R.C. 3113.31(N)(1) and R.C. 2919.272, not in the bill.

³⁰ R.C. 3113.31(N)(2) and (3).



approving courts. An agency must note on the index the date and time that it received each order or consent agreement.³¹

(2) Regardless of whether a petitioner has registered an order or agreement in the county in which the officer's agency has jurisdiction (see "**Registration of protection orders**," above), any officer of a law enforcement agency must enforce a DVCPO or other protection order issued or consent agreement approved by any court in Ohio, including removing the respondent from the premises, if appropriate.³²

(3) Any law enforcement agency that investigates a domestic dispute must provide the persons in the dating relationship who are involved with information about the DVCPO relief available under the bill.³³

Victims' bill of rights pamphlet

Existing law requires the Attorney General to prepare and distribute a pamphlet that explains the statutory rights of crime victims.³⁴ Prosecutors handling a criminal case and law enforcement officers investigating a criminal or delinquency case generally must provide a copy of the pamphlet to the victim, victim's family, or victim's dependents upon first contact.³⁵ The bill adds to the list of rights that must be explained the right of a petitioner alleging domestic violence in a dating relationship to seek a DVCPO under the bill's provisions described above.³⁶

Access to funded domestic violence shelters

The Revised Code sets forth a funding mechanism for shelters for victims of domestic violence. For purposes of the sections that deal with that mechanism, existing law defines "domestic violence" as "attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm" and defines "shelter for victims of domestic violence" as "a facility that provides temporary residential service or facilities to family or household members who are victims of domestic violence." The bill expands those definitions to provide that "domestic violence" also includes "attempting to cause or causing bodily injury to a person with whom the actor is or was in a dating relationship,

³¹ R.C. 3113.31(F)(3).

³² R.C. 3113.31(F)(4).

³³ R.C. 3113.31(I).

³⁴ R.C. 109.42(A).

³⁵ R.C. 109.42(B)(1).

³⁶ R.C. 109.42(A)(15).

or placing a person with whom the actor is or was in a dating relationship by threat of force in fear of imminent physical harm" and that "shelter for victims of domestic violence" also includes "a facility that provides temporary residential service or facilities to persons with whom the actor is or was in a dating relationship who are victims of domestic violence." The effect of the bill's expansion of the definitions is to include the added type of domestic violence within the scope of the shelter provisions.³⁷

As used in the bill's expansion of the definitions:³⁸

"Dating relationship" has the same meaning as is described above in **"Definitions"** under **"Domestic violence civil protection order for petitioner in a dating relationship with the respondent."**

"Person with whom the actor is or was in a dating relationship" means an adult who, at the time of the conduct in question, is in a dating relationship with the actor who also is an adult or who, within the 12 months preceding the conduct in question, has had a dating relationship with the actor who also is an adult.

"Actor" means a person who attempts to cause or causes bodily injury to another, or places another by threat of force in fear of imminent physical harm.

Existing protection orders and firearms warning

Types of orders

Existing law 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;³⁹

(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,⁴⁰ or (b) as a DVCPO, who allegedly has engaged in domestic

³⁷ R.C. 3113.33(A) and (C).

³⁸ R.C. 3113.33(E) to (G).

³⁹ R.C. 2151.34.

⁴⁰ R.C. 2903.214.



violence (including any sexually oriented offense) against a specified family or household member to be protected under the order;⁴¹

(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,⁴² 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.⁴³

Notice of possible firearm and ammunition restriction

Currently, when the court issues an order or approves a consent agreement of the type described above in (1), (2)(a) or (b), or (3)(b), it must provide the parties with oral or written notice, the language of which is specified in existing law, that as a result of the order or agreement it may be unlawful under federal law for one or both of the parties to possess or purchase a firearm or ammunition. The bill expands that language to require that it specify that the above restriction against possessing or purchasing a firearm or ammunition is for the duration of the order or agreement.⁴⁴ As described above, this expansion also will apply regarding an order issued under the bill's provisions with respect to a petition filed for the protection of a person with whom the respondent is or was in a dating relationship.⁴⁵

HISTORY

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Introduced	02-01-17
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Reported, S. Judiciary	---

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⁴¹ R.C. 3113.31.

⁴² R.C. 2903.213, not in the bill.

⁴³ R.C. 2919.26.

⁴⁴ R.C. 2151.34(F)(2), 2903.214(F)(2), 2919.26(G)(2), and 3113.31(F)(2).

⁴⁵ R.C. 3113.31(F)(2).

