



Legislation Details (With Text)

File #: 1328-2018 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 5/2/2018 **In control:** Rules & Reference Committee

On agenda: 5/14/2018 **Final action:** 5/16/2018

Title: To amend Columbus City Code sections 2303.05, 2303.13, 2303.14, 2303.21 and 2303.22 and enact new sections 2319.25 and 2319.27 to conform the Columbus City Code to state law and create provisions for domestic violence and violation of a protection order.

Sponsors: Mitchell Brown, Elizabeth Brown, Jaiza Page, Emmanuel V. Remy, Michael Stinziano, Priscilla Tyson, Shannon G. Hardin

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
5/16/2018	1	CITY CLERK	Attest	
5/15/2018	1	MAYOR	Signed	
5/14/2018	1	COUNCIL PRESIDENT	Signed	
5/14/2018	1	Columbus City Council	Approved	Pass
5/7/2018	1	Columbus City Council	Read for the First Time	

The purpose of this ordinance is to conform language in the Columbus City Codes regarding negligent homicide, assault, negligent assault, aggravated menacing, and menacing to similar provisions in the Ohio Revised Code, to add forfeiture of weapons used in the commission of these offenses, and to add mandatory jail time, if the perpetrator possessed a gun when the offense was committed.

The ordinance also enacts new sections creating the offense of domestic violence, including intimate partner violence, and the offense of violation of a protection order in the Columbus City Codes. These new sections also conform to state law and include forfeiture of weapons and mandatory jail time for gun possession when committing these crimes.

To amend Columbus City Code sections 2303.05, 2303.13, 2303.14, 2303.21 and 2303.22 and enact new sections 2319.25 and 2319.27 to conform the Columbus City Code to state law and create provisions for domestic violence and violation of a protection order.

WHEREAS, statewide law in Ohio upheld by the Ohio Supreme Court prevents the City of Columbus from passing common sense gun control measures to reduce gun violence. Furthermore, without a uniform system of gun control measures throughout the United States, the effectiveness of actions taken by individual municipalities and states is reduced; and

WHEREAS, requiring violent criminals to forfeit weapons used in the commission of offenses against individuals enhances community safety; and

WHEREAS, Ohio narrowly defines domestic violence as occurring between spouses, those cohabiting, or family members and does not offer specific legal protections for victims of dating violence; and

WHEREAS, domestic violence is a serious crime which has severe negative impacts on individuals and families in Columbus and the City of Columbus is committed to protecting individuals experiencing domestic violence; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That section 2303.05 of the Columbus City Codes is hereby amended as follows:

2303.05 - Negligent homicide.

(A) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 2923.11 of the Ohio Revised Code.

(B) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree.

(C) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

SECTION 2. That section 2303.13 of the Columbus City Codes is hereby amended as follows:

2303.13 - Assault.

(A) No person shall knowingly cause or attempt to cause physical harm to another.

(B) No person shall recklessly cause serious physical harm to another.

(C) Whoever violates this section is guilty of assault, ~~a misdemeanor of the first degree~~; and the court shall sentence the offender as provided in divisions (C)(1) to (3) of this section.

(1) Except as otherwise provided in divisions (C)(2) to (3) of this section, a violation of division (A) or (B) of this section is a misdemeanor of the first degree.

(2) Except as otherwise provided in division (C)(3) of this section, if the offense occurred on city owned property, in a school building, on school premises, or within 1000 feet of the boundaries of school premises, then the court, in addition to any other sanction imposed, shall impose a mandatory minimum jail term of imprisonment of at least thirty (30) days, which shall not be suspended, shall be a period of consecutive days imprisonment, and during which mandatory minimum jail term of imprisonment the defendant shall not be eligible for community control, probation, house arrest, or work release.

(3) If at the time of the commission of the offense, the offender had a firearm or dangerous ordnance on or about the offender's person or under the offender's control, a violation of this section is a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for community control, probation, house arrest, or work release, and up to a \$1500 fine.

(D) This section shall not apply to circumstances which, by law, constitute felony violations to be prosecuted under either ORC section 2901.13 or other applicable state law.

SECTION 3. That section 2303.14 of the Columbus City Codes is hereby amended as follows:

2303.14 - Negligent assault.

(A) No person shall negligently, by means of a deadly weapon or dangerous ~~ordnance~~ ordnance as defined in Section 2923.11 of the Revised Code, cause physical harm to another.

(B) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.

(C) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

SECTION 4. That section 2303.21 of the Columbus City Codes is hereby amended as follows:

2303.21 - Aggravated menacing.

(A) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of ~~such the other person or a member of his the other person's~~ the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(B) Whoever violates this section is guilty of aggravated menacing, ~~a misdemeanor of the first degree. and the court shall sentence the offender as provided in divisions (B)(1) or (2) of this section.~~

(1) Except as otherwise provided in division (B)(2) of this section, a violation of this section is a misdemeanor of the first degree.

(2) If at the time of the commission of the offense, the offender had a firearm or dangerous ordnance on or about the offender's person or under the offender's control, a violation of this section is a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for community control, probation, house arrest, or work release, and up to a \$1500 fine.

(C) This section shall not apply to circumstances which, by law, constitute felony violations to be prosecuted under either ORC section 2903.21 or other applicable state law.

(D) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(E) As used in this section, "organization" includes an entity that is a governmental employer.

SECTION 5. That section 2303.22 of the Columbus City Codes is hereby amended as follows:

2303.22 - Menacing.

(A) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of ~~such the other person or a member of his the other person's~~ the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(B) Whoever violates this section is guilty of menacing, ~~a misdemeanor of the fourth degree. and the court shall sentence the offender as provided in divisions (B)(1) to (3) of this section.~~

(1) Except as otherwise provided in divisions (B)(2) or (3) of this section, a violation of this section is a misdemeanor of the fourth degree.

(2) Except as otherwise provided in division (B)(3) of this section, if the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a violation of this section is a misdemeanor of the first degree.

(3) If at the time of the commission of the offense, the offender had a firearm or dangerous ordnance on or about the offender's person or under the offender's control, a violation of this section is a misdemeanor of the first degree, with a mandatory minimum jail term of at least sixty (60) consecutive days during which mandatory jail term the defendant shall not be eligible for community control, probation, house arrest, or work release, and up to a \$1000 fine.

(C) This section shall not apply to circumstances which, by law, constitute felony violations to be prosecuted under either ORC section 2903.22 or other applicable state law.

(D) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(E) As used in this section, "organization" includes an entity that is a governmental employer.

SECTION 6. That title of Chapter 2319 of the Columbus City Codes is hereby amended to read as follows:

Chapter 2319 - OFFENSES INVOLVING MINORS AGAINST THE FAMILY

SECTION 7. That new section 2319.25 of the Columbus City Codes is hereby enacted, reading as follows:

2319.25 Domestic violence.

(A) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(B) No person shall recklessly cause serious physical harm to a family or household member.

(C) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(D) No person shall knowingly cause or attempt to cause physical harm to an intimate partner.

(E) No person shall recklessly cause serious physical harm to an intimate partner.

(F) No person, by threat of force, shall knowingly cause an intimate partner to believe that the offender will cause imminent physical harm to the intimate partner.

(G) (1) Whoever violates divisions (A), (B) or (C) of this section is guilty of domestic violence and whoever violates divisions (D), (E) or (F) of this section is guilty of intimate partner violence. The court shall sentence the offender as provided in divisions (G)(2) to (6) of this section.

(2) Except as otherwise provided in divisions (G)(3) to (6) of this section, a violation of division (C) or (F) of this section is a misdemeanor of the fourth degree, and a violation of division (A), (B), (D), or (E) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in division (G)(4) or (6) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence or intimate partner violence, a violation of an existing or former municipal

ordinance or law of this or any other state or the United States that is substantially similar to domestic violence or intimate partner violence, a violation of section 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of divisions (C) or (F) of this section is a misdemeanor of the second degree.

(4) Except as otherwise provided in division (G)(6) of this section, if the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence/intimate partner violence or two or more violations or offenses of the type described in division (G)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of division (C) or (F) of this section is a misdemeanor of the first degree.

(5) Except as otherwise provided in division (G)(3), (4), or (6) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of division (C) or (F) of this section is a misdemeanor of the third degree.

(6) If at the time of the commission of the offense, the offender had a firearm or dangerous ordnance on or about the offender's person or under the offender's control, a violation of division (A), (B), (D) or (E) of this section is a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for community control, probation, house arrest, or work release, and up to a \$1500 fine and a violation of division (C) or (F) of this section is a first degree misdemeanor, with a mandatory minimum jail term of at least sixty (60) consecutive days during which mandatory jail term the defendant shall not be eligible for community control, probation, house arrest, or work release, and up to a \$1000 fine.

(H) This section shall not apply to circumstances which, by law, constitute felony violations to be prosecuted under either ORC section 2919.25 or other applicable state law.

(I) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(J) Notwithstanding any provision of law to the contrary, no court or unit of state or local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(K) As used in this section:

(1) "Family or household member" means 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, or a former spouse of the offender;

(ii) A parent, a foster 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.

(2) "Person living as a spouse" means 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) "Intimate partner" means a person with whom the offender is or has been in a dating relationship but who does not meet the definition of a family or household member.

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

SECTION 8. That new section 2319.27 of the Columbus City Codes is hereby enacted, reading as follows:

2319.27 Violating protection order.

(A) No person shall recklessly violate the terms of any of the following:

(1) A protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code;

(2) A protection order issued pursuant to section 2151.34, 2903.213, or 2903.214 of the Revised Code;

(3) A protection order issued by a court of another state.

(B)(1) Whoever violates this section is guilty of violating a protection order. Except as otherwise provided in division (B) (2) of this section, violating a protection order is a misdemeanor of the first degree.

(2) If at the time of the commission of the offense, the offender had a firearm or dangerous ordnance on or about the offender's person or under the offender's control, a violation of this section is a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for community control, probation, house arrest, or work release, and up to a \$1500 fine .

(3) If the protection order violated by the offender was an order issued pursuant to section 2151.34 or 2903.214 of the Revised Code that required electronic monitoring of the offender pursuant to that section, 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 under this division that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall 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 and subject to the maximum amount allowable and the rules promulgated by the attorney general under section 2903.214 of the Revised Code, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to section 2743.191 of the Revised Code. The total amount paid from the reparations fund created pursuant to section 2743.191 of the Revised Code for electronic monitoring under this section and sections 2151.34 and 2903.214 of the Revised Code shall not exceed three hundred thousand dollars per year.

(C) This section shall not apply to circumstances which, by law, constitute felony violations to be prosecuted under either ORC section 2919.27 or other applicable state law.

(D) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(E) It is an affirmative defense to a charge under division (A)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this state or that it is not entitled to full faith and credit under 18 U.S.C. 2265 (c).

(F) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(G) As used in this section, “protection order issued by a court of another state” means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. “Protection order issued by a court of another state” does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States.

SECTION 9. That the existing title of Chapter 2319 and existing sections 2303.05, 2303.13, 2303.14, 2303.21 and 2303.22 of the Columbus City Codes are hereby repealed.

SECTION 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.