

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-147—sHB 5341

Judiciary Committee

AN ACT CONCERNING THE DESIGNATION OF A PERSON CONVICTED OF CRIMINAL VIOLATION OF A STANDING CRIMINAL PROTECTIVE ORDER AS A PERSISTENT OFFENDER

SUMMARY: This act subjects a standing criminal protective order violator to an enhanced penalty for persistent offenders if, in addition to violating the order, he or she has a prior conviction for certain crimes. It also adds criminal violation of a standing criminal protective order to the list of prior convictions that can subject someone to the enhanced persistent offender penalty.

As of October 1, 2010, the law renamed standing criminal restraining orders as standing criminal protective orders. The act ensures that anywhere the term standing criminal protective order is used in the statutes, it includes standing criminal restraining orders issued before October 1, 2010.

EFFECTIVE DATE: October 1, 2014, and the persistent offender provisions apply to convictions entered on and after that date.

PERSISTENT OFFENDERS OF CERTAIN CRIMES

By law, to be considered a persistent offender a person must (1) stand convicted of certain crimes and (2) have a prior conviction of certain crimes. The act adds criminal violation of a standing criminal protective order to the list of crimes for which a person can stand convicted to qualify as a persistent offender. As under prior law, someone can be a persistent offender if he or she stands convicted of one of the following crimes:

1. 3rd degree assault;
2. 2nd degree stalking, threatening, or harassment;
3. 1st or 2nd degree criminal trespass; or
4. criminal violation of other types of victim protection orders (a protective or restraining order).

To be sentenced as a persistent offender, the person must have a prior conviction of certain crimes. The act adds a prior conviction of criminal violation of a standing criminal protective order to this list. As under prior law, a person can be a persistent offender if he or she has a prior conviction of:

1. a capital felony committed before April 25, 2012 or class A felony;
2. a class B felony, except promoting 1st degree prostitution and 1st degree larceny;
3. a class C felony, except promoting 2nd degree prostitution and bribing jurors;
4. 2nd or 3rd degree assault, 3rd degree burglary or robbery, 3rd degree sexual

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assault, 2nd degree stalking or harassment, 2nd degree threatening, 1st degree unlawful restraint, reckless burning, 1st or 2nd degree criminal trespass, or criminal use of a firearm or electronic defense weapon;

5. criminal violation of other types of victim protection orders (a protective or restraining order); or
6. a similar crime in another state.

By law, the enhanced penalty for this type of persistent offender is the sentence for the next more serious degree of the crime.

By subjecting a standing criminal protective order violator to the enhanced penalty if he or she has one of the required prior convictions, the act increases the penalty for such a violator from a:

1. class D to a class C felony or
2. as of January 1, 2015, class C to a class B felony, if violating the order involved restraining the person or threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the person (see PA 14-217 § 123)(see Table on Penalties).

BACKGROUND

Standing Criminal Protective Orders

The law allows the court to issue one of these orders when:

1. someone is convicted of a family violence crime or certain other crimes against a family or household member and
2. the history, character, nature, and circumstances of the offender's conduct indicate that the order best serves the victim's and public's interests.

For most family violence crimes, the court must find good cause to issue the order.

The court sets the order's duration and terms and can modify or revoke it for good cause.

OLR Tracking: CR:RP:JKL:ro