



Reprinted  
February 14, 2001

---

---

## HOUSE BILL No. 1874

---

DIGEST OF HB 1874 (Updated February 13, 2001 3:53 PM - DI 51)

**Citations Affected:** IC 5-2; IC 33-11.6; IC 33-17; IC 33-19; IC 34-6; IC 34-13; IC 34-26; IC 35-38; IC 35-45; IC 35-46; noncode.

**Synopsis:** Domestic protection orders. Provides for the registration and enforcement in Indiana of protection orders issued by another state or an Indian tribe. Eliminates prepayment of filing fees and witness fees for proceedings filed solely to obtain a protective order to prevent domestic violence or enforce a foreign domestic violence protection order. Grants immunity to a governmental entity or employee, including a law enforcement officer, that registers or enforces a court order in good faith without malice. Provides that commission of an offense in the presence or within hearing of a child is an aggravating factor that would justify an increased term of imprisonment or consecutive sentences. Expands the types of protective orders to which the crime of stalking applies. Provides that violation of a protective order issued by an Indian tribe or other related tribal government constitutes invasion of privacy.

**Effective:** Upon passage; July 1, 2001; July 1, 2002.

---

---

**Lawson L, Becker, Foley, Young D**

---

---

January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.  
February 8, 2001, amended, reported — Do Pass.  
February 13, 2001, read second time, amended, ordered engrossed.

---

---

C  
o  
p  
y

HB 1874—LS 7919/DI 51+



Reprinted  
February 14, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

C  
o  
p  
y

## HOUSE BILL No. 1874

---

A BILL FOR AN ACT to amend the Indiana Code concerning domestic protection orders.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.24-2000,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2001]: Sec. 1. The following definitions apply throughout this  
4 chapter:

5 (1) "Limited criminal history" means information with respect to  
6 any arrest, indictment, information, or other formal criminal  
7 charge, which must include a disposition. However, information  
8 about any arrest, indictment, information, or other formal criminal  
9 charge which occurred less than one (1) year before the date of a  
10 request shall be considered a limited criminal history even if no  
11 disposition has been entered.

12 (2) "Bias crime" means an offense in which the person who  
13 committed the offense knowingly or intentionally:

14 (A) selected the person who was injured; or

15 (B) damaged or otherwise affected property;

16 by the offense because of the color, creed, disability, national  
17 origin, race, religion, or sexual orientation of the injured person

HB 1874—LS 7919/DI 51+



1 or of the owner or occupant of the affected property or because  
 2 the injured person or owner or occupant of the affected property  
 3 was associated with any other recognizable group or affiliation.

4 (3) "Council" means the security and privacy council created  
 5 under section 11 of this chapter.

6 (4) "Criminal history data" means information collected by  
 7 criminal justice agencies, the United States Department of Justice  
 8 for the department's information system, or individuals. The term  
 9 consists of the following:

10 (A) Identifiable descriptions and notations of arrests,  
 11 indictments, informations, or other formal criminal charges.

12 (B) Information regarding an offender (as defined in  
 13 IC 5-2-12-4) obtained through sex offender registration under  
 14 IC 5-2-12.

15 (C) Any disposition, including sentencing, and correctional  
 16 system intake, transfer, and release.

17 (5) "Criminal justice agency" means any agency or department of  
 18 any level of government whose principal function is the  
 19 apprehension, prosecution, adjudication, incarceration, probation,  
 20 rehabilitation, or representation of criminal offenders, the location  
 21 of parents with child support obligations under 42 U.S.C. 653, the  
 22 licensing and regulating of riverboat gambling operations, or the  
 23 licensing and regulating of pari-mutuel horse racing operations.  
 24 The term includes the Medicaid fraud control unit for the purpose  
 25 of investigating offenses involving Medicaid. The term includes  
 26 a nongovernmental entity that performs as its principal function  
 27 the:

28 (A) apprehension, prosecution, adjudication, incarceration, or  
 29 rehabilitation of criminal offenders;

30 (B) location of parents with child support obligations under 42  
 31 U.S.C. 653;

32 (C) licensing and regulating of riverboat gambling operations;  
 33 or

34 (D) licensing and regulating of pari-mutuel horse racing  
 35 operations;

36 under a contract with an agency or department of any level of  
 37 government.

38 (6) "Department" means the state police department.

39 (7) "Disposition" means information disclosing that criminal  
 40 proceedings have been concluded or indefinitely postponed.

41 **(8) "Foreign protection order" has the meaning set forth in**  
 42 **IC 34-6-2-48.5.**

C  
o  
p  
y



- 1 **(9) "Indiana order" has the meaning set forth in IC 5-2-9-2.1.**  
 2 ~~(8) (10)~~ "Inspection" means visual perusal and includes the right  
 3 to make memoranda abstracts of the information.  
 4 ~~(9) (11)~~ "Institute" means the Indiana criminal justice institute  
 5 established under IC 5-2-6.  
 6 ~~(10) (12)~~ "Law enforcement agency" means an agency or a  
 7 department of any level of government whose principal function  
 8 is the apprehension of criminal offenders.  
 9 ~~(11) "Protective order" has the meaning set forth in IC 5-2-9-2.1.~~  
 10 ~~(12) (13)~~ "Release" means the furnishing of a copy, or an edited  
 11 copy, of criminal history data.  
 12 ~~(13) (14)~~ "Reportable offenses" means all felonies and those Class  
 13 A misdemeanors which the superintendent may designate.  
 14 ~~(14) (15)~~ "Request" means the asking for release or inspection of  
 15 a limited criminal history by noncriminal justice organizations or  
 16 individuals in a manner which:  
 17 (A) reasonably ensures the identification of the subject of the  
 18 inquiry; and  
 19 (B) contains a statement of the purpose for which the  
 20 information is requested.  
 21 ~~(15) (16)~~ "Unidentified person" means a deceased or mentally  
 22 incapacitated person whose identity is unknown.  
 23 SECTION 2. IC 5-2-5-12 IS AMENDED TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) On a daily basis, all law  
 25 enforcement agencies shall enter into the Indiana data and  
 26 communication system (IDACS) computer the following:  
 27 (1) All information concerning stolen or recovered property,  
 28 including:  
 29 (A) motor vehicles;  
 30 (B) firearms;  
 31 (C) securities;  
 32 (D) boats;  
 33 (E) license plates; and  
 34 (F) other stolen or recovered property.  
 35 (2) All information concerning fugitives charged with a crime,  
 36 including information concerning extradition.  
 37 (3) All information concerning runaways, missing and  
 38 unidentified persons, and missing children (as defined in  
 39 IC 10-1-7-2), including information concerning the release of  
 40 such persons to the custody of a parent or guardian.  
 41 (4) Information contained in a ~~protective~~ **an Indiana** order,  
 42 including any modifications or extensions issued by a court and

C  
O  
P  
Y



1 filed with a law enforcement agency as required in IC 5-2-9-6(f).  
 2 **(5) Information contained in a foreign protection order,**  
 3 **including any modifications or extensions issued by a tribunal**  
 4 **and filed with a law enforcement agency as required in**  
 5 **IC 5-2-9-6.3(c).**

6 (b) On a daily basis, all law enforcement agencies shall:

7 (1) enter all information concerning missing children (as defined  
 8 in IC 10-1-7-2) into the National Crime Information Center's  
 9 Missing Person File;

10 (2) enter into the National Crime Information Center's Wanted  
 11 Person File all information concerning warrants issued for a  
 12 person who allegedly abducted or unlawfully retained a missing  
 13 child; and

14 (3) enter all information concerning unidentified persons into the  
 15 National Crime Information Center's Unidentified Person File.

16 (c) If a ~~protective an Indiana order or foreign protection order~~ is  
 17 removed from a depository established under IC 5-2-9, the law  
 18 enforcement agency responsible for the depository shall delete the  
 19 information entered under subsection (a)(4) **or (a)(5)** from the Indiana  
 20 data and communication system (IDACS) computer.

21 SECTION 3. IC 5-2-9-1.3 IS ADDED TO THE INDIANA CODE  
 22 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 23 **1, 2001]: Sec. 1.3. As used in this chapter, "county clerk" refers to**  
 24 **the clerk of the circuit court.**

25 SECTION 4. IC 5-2-9-1.5 IS ADDED TO THE INDIANA CODE  
 26 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 27 **1, 2001]: Sec. 1.5. As used in this chapter, "foreign protection**  
 28 **order" has the meaning set forth in IC 34-6-2-48.5.**

29 SECTION 5. IC 5-2-9-1.5 IS ADDED TO THE INDIANA CODE  
 30 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 31 **1, 2001]: Sec. 1.5. As used in this chapter, "tribunal" has the**  
 32 **meaning set forth in IC 34-6-2-144.2.**

33 SECTION 6. IC 5-2-9-2.1 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. (a) As used in this  
 35 chapter, "**Indiana order**" means:

36 (1) a protective order issued under:

37 (A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its  
 38 repeal);

39 (B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its  
 40 repeal); or

41 (C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its  
 42 repeal);

C  
O  
P  
Y



- 1 that orders the respondent to refrain from abusing, harassing, or  
 2 disturbing the peace of the petitioner;
- 3 (2) an emergency protective order issued under IC 34-26-2-6(1),  
 4 IC 34-26-2-6(2), or IC 34-26-2-6(3) (or IC 34-4-5.1-2.3(a)(1)(A),  
 5 IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their  
 6 repeal) that orders the respondent to refrain from abusing,  
 7 harassing, or disturbing the peace of the petitioner;
- 8 (3) a temporary restraining order issued under IC 31-15-4-3(2) **or**  
 9 IC 31-15-4-3(3), **(or IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3),**  
 10 ~~or~~ IC 31-1-11.5-7(b)(2), or IC 31-1-11.5-7(b)(3) before their  
 11 repeal) that orders the respondent to refrain from abusing,  
 12 harassing, or disturbing the peace of the petitioner;
- 13 (4) a dispositional decree issued under IC 31-34-20-1,  
 14 IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or  
 15 IC 31-6-4-15.9 before their repeal) or an order issued under  
 16 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders a  
 17 person to refrain from direct or indirect contact with a child in  
 18 need of services or a delinquent child;
- 19 (5) an order issued as a condition of pretrial release, **including**  
 20 **release on bail or personal recognizance**, or pretrial diversion,  
 21 that orders a person to refrain from any direct or indirect contact  
 22 with another person;
- 23 (6) an order issued as a condition of probation that orders a person  
 24 to refrain from any direct or indirect contact with another person;
- 25 (7) a protective order issued under IC 31-15-5 or IC 31-16-5 (or  
 26 IC 31-1-11.5-8.2 before its repeal) that orders the respondent to  
 27 refrain from abusing, harassing, or disturbing the peace of the  
 28 petitioner;
- 29 (8) a protective order issued under IC 31-14-16 in a paternity  
 30 action that orders the respondent to refrain from having direct or  
 31 indirect contact with another person; ~~or~~
- 32 (9) a protective order issued under IC 31-34-17 in a child in need  
 33 of services proceeding or under IC 31-37-16 in a juvenile  
 34 delinquency proceeding that orders the respondent to refrain from  
 35 having direct or indirect contact with a child; **or**
- 36 **(10) an order issued by a court in Indiana under**  
 37 **IC 34-26-2.5-4 to enforce a foreign protection order.**
- 38 (b) Whenever an **Indiana** order is issued, the **Indiana** order must  
 39 be captioned in a manner that indicates the type of order issued and the  
 40 section of the Indiana Code that authorizes the protective order.
- 41 SECTION 7. IC 5-2-9-5 IS AMENDED TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2001]: Sec. 5. A depository is established in the

C  
o  
p  
y



1 office of each sheriff and law enforcement agency in Indiana for the  
2 purpose of collecting, maintaining, and retaining the following:

3 (1) ~~protective Indiana orders issued under IC 34-26-2 (or~~  
4 ~~IC 34-4-5.1 before its repeal) to prevent abuse of a person:~~

5 (2) ~~A dispositional decree issued under IC 31-34-20-1,~~  
6 ~~IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or~~  
7 ~~IC 31-6-4-15.9 before their repeal) or an injunction issued under~~  
8 ~~IC 31-32-13 (or IC 31-6-7-14 before its repeal) that requires a~~  
9 ~~person to refrain from direct or indirect contact with a child in~~  
10 ~~need of services or a delinquent child:~~

11 (3) ~~Temporary restraining orders issued under IC 31-15-4-3(2);~~  
12 ~~IC 31-15-4-3(3) IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) (or~~  
13 ~~IC 31-1-11.5-7(b)(2), or IC 31-1-11.5-7(b)(3) before their repeal)~~  
14 ~~that orders the respondent to refrain from abusing, harassing, or~~  
15 ~~disturbing the peace of the petitioner:~~

16 (4) ~~Orders issued as a condition of pretrial release or pretrial~~  
17 ~~diversion that require a person to refrain from any direct or~~  
18 ~~indirect contact with another person:~~

19 (5) ~~Orders issued as a condition of probation that require a person~~  
20 ~~to refrain from any direct or indirect contact with another person:~~

21 (6) ~~Permanent protective orders issued under IC 31-15-5 or~~  
22 ~~IC 31-16-5 (or IC 31-1-11.5-8.2 before its repeal) that order the~~  
23 ~~respondent to refrain from abusing, harassing, or disturbing the~~  
24 ~~peace of the petitioner:~~

25 **(2) Foreign protection orders.**

26 SECTION 8. IC 5-2-9-6 IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The clerk of a court that  
28 issues an **Indiana** order shall provide a copy of the **Indiana** order to  
29 the following:

30 (1) Each party.

31 (2) A law enforcement agency of the municipality in which the  
32 person protected by the **Indiana** order resides.

33 (3) If the person protected by the **Indiana** order does not reside in  
34 a municipality, the sheriff of the county in which the protected  
35 person resides.

36 (b) The clerk of a court that issues an **Indiana** order or the clerk of  
37 a court in which a petition is filed shall:

38 (1) maintain a confidential file to secure any confidential  
39 information about a protected person designated on any form  
40 prescribed or approved by the division of state court  
41 administration; and

42 (2) provide a copy of the confidential form that accompanies the

C  
O  
P  
Y



- 1           **Indiana** order to the following:
- 2           (A) The sheriff of the county in which the **Indiana** order was
- 3           issued.
- 4           (B) The law enforcement agency of the municipality, if any, in
- 5           which the protected person resides.
- 6           (C) Any other sheriff or law enforcement agency designated in
- 7           the **Indiana** order that has jurisdiction over the area in which
- 8           a protected person may be located or protected.
- 9           (c) A sheriff or law enforcement agency that receives an **Indiana**
- 10          order under subsection (a) and a confidential form under subsection (b)
- 11          shall:
- 12          (1) maintain a copy of the **Indiana** order in the depository
- 13          established under this chapter;
- 14          (2) enter:
- 15               (A) the date and time the sheriff or law enforcement agency
- 16               receives the **Indiana** order;
- 17               (B) the location of the person who is subject to the **Indiana**
- 18               order, **if reasonably ascertainable from the information**
- 19               **received;**
- 20               (C) the name and identification number of the officer who
- 21               serves the **Indiana** order; ~~and~~
- 22               (D) the manner in which the **Indiana** order is served;
- 23               **(E) the name of the petitioner and any other protected**
- 24               **parties;**
- 25               **(F) the Social Security number, date of birth, and physical**
- 26               **description of each person who is the subject of the Indiana**
- 27               **protection order, if reasonably ascertainable from the**
- 28               **information received;**
- 29               **(G) the date the Indiana protection order expires;**
- 30               **(H) a caution indicator stating whether a person who is the**
- 31               **subject of the Indiana protection order is believed to be**
- 32               **armed and dangerous, if reasonably ascertainable from the**
- 33               **information received; and**
- 34               **(I) if furnished, a Brady record indicator stating whether**
- 35               **a person who is the subject of the Indiana protection order**
- 36               **is prohibited from purchasing or possessing a firearm**
- 37               **under federal law, if reasonably ascertainable from the**
- 38               **information received;**
- 39          on the copy of the **Indiana** order or the confidential form; and
- 40          (3) establish a confidential file in which a confidential form that
- 41          contains information concerning a protected person is kept.
- 42          (d) An **Indiana** order may be removed from the depository

C  
O  
P  
Y





1 established under this chapter only if the sheriff or law enforcement  
2 agency that administers the depository receives:

- 3 (1) a notice of termination on a form prescribed or approved by  
4 the division of state court administration;
- 5 (2) an order of the court; or
- 6 (3) a notice of termination and an order of the court.

7 (e) If an **Indiana** order in a depository established under this chapter  
8 is terminated, ~~or expires~~, the person who obtained the protective order  
9 must file a notice of termination on a form prescribed or approved by  
10 the division of state court administration with the clerk of the court.  
11 The clerk of the court shall provide a copy of the notice of termination  
12 **of an Indiana** ~~or~~ order to each of the depositories to which the **Indiana**  
13 order and a confidential form were sent. The clerk of the court shall  
14 maintain the notice of termination in the court's file.

15 (f) If an **Indiana** order or form in a depository established under this  
16 chapter is extended or modified, the person who obtained the extension  
17 or modification must file a notice of extension or modification on a  
18 form prescribed or approved by the division of state court  
19 administration with the clerk of the court. The clerk of the court shall  
20 provide a copy of the notice of extension or modification **of an Indiana**  
21 ~~or~~ order to each of the depositories to which the **Indiana** order and a  
22 confidential form were sent. The clerk of the court shall maintain the  
23 notice of extension or modification **of an Indiana order** in the court's  
24 file.

25 (g) The clerk of a court that issued an order terminating an **Indiana**  
26 **order that is an** emergency protective order shall provide a copy of the  
27 **Indiana** order to the following:

- 28 (1) Each party.
- 29 (2) The law enforcement agency provided with a copy of the  
30 **emergency protective Indiana** order under subsection (a).

31 SECTION 9. IC 5-2-9-6.3 IS ADDED TO THE INDIANA CODE  
32 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY  
33 1, 2001]: **Sec. 6.3. (a) A county clerk that accepts a foreign**  
34 **protection order for filing under IC 34-26-2.5-12 shall provide a**  
35 **copy of the foreign protection order to the following:**

- 36 (1) **The person filing the foreign protection order.**
- 37 (2) **A law enforcement agency of the municipality in which the**  
38 **person protected by the foreign protection order resides.**
- 39 (3) **If the person protected by the foreign protection order**  
40 **does not reside in a municipality, the sheriff of the county in**  
41 **which the protected person resides.**

42 (b) **A county clerk that accepts a foreign protection order for**

C  
o  
p  
y



1 filing under IC 34-26-2.5-12 shall:

2 (1) maintain a confidential file to secure any confidential  
3 information about a protected person designated on any form  
4 prescribed or approved by the division of state court  
5 administration; and

6 (2) provide a copy of the confidential form that accompanies  
7 the foreign protection order to the following:

8 (A) The sheriff of the county where the county clerk  
9 maintains the county clerk's principal office.

10 (B) The law enforcement agency of the municipality, if any,  
11 in which the protected person resides.

12 (C) Any other sheriff or law enforcement agency that the  
13 county clerk has reason to believe has jurisdiction over the  
14 area in which a protected person may be located or  
15 protected.

16 (c) A sheriff or law enforcement agency that receives a foreign  
17 protection order under subsection (a) and a confidential form  
18 under subsection (b) shall:

19 (1) maintain a copy of the foreign protection order in the  
20 depository established under this chapter;

21 (2) enter:

22 (A) the name of the petitioner and any other protected  
23 parties;

24 (B) the date and time the sheriff or law enforcement  
25 agency received the foreign protection order;

26 (C) the location of each person who is the subject to the  
27 foreign protection order, if reasonably ascertainable from  
28 the information received;

29 (D) the date the foreign protection order expires;

30 (E) the tribunal and contact information, including the  
31 name and telephone number of the presiding officer or  
32 clerk of the issuing tribunal, if reasonably ascertainable  
33 from the information received;

34 (F) the Social Security number, date of birth, and physical  
35 description of each person who is the subject to the foreign  
36 protection order, if reasonably ascertainable from the  
37 information received;

38 (G) a caution indicator stating whether a person who is the  
39 subject of the foreign protection order is believed to be  
40 armed and dangerous, if reasonably ascertainable from the  
41 information received;

42 (H) if furnished, a Brady record indicator stating whether

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

a person who is the subject of the foreign protection order is prohibited from purchasing or possessing a firearm under federal law, if reasonably ascertainable from the information received;

(I) the name and identification number of the officer who serves a foreign protection order, if reasonably ascertainable from the information received; and

(J) the manner in which the foreign protection order is served, if reasonably ascertainable from the information received;

on the copy of the foreign protection order or the confidential form; and

(3) establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) A foreign protection order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;

(2) an order of the tribunal issuing the foreign protection order; or

(3) a notice of termination and an order of a tribunal issuing the protection order.

(e) If a foreign protection order in a depository established under this chapter is terminated, the person who obtained the protective order must file a notice of termination on a form prescribed or approved by the division of state court administration with the county clerk where the foreign protection order was filed. The county clerk shall provide a copy of the notice of termination of a foreign protection order or order of a tribunal to each of the depositories to which the foreign protection order and a confidential form were sent. The county clerk shall maintain the notice of termination in the court's file.

(f) If a foreign protection order or form in a depository established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the county clerk where the foreign protection order was filed. The county clerk shall provide a copy of the notice of extension or modification of a foreign protection order or order of a tribunal to each of the

C  
O  
P  
Y



1 **depositories to which the Indiana order and a confidential form**  
2 **were sent. The county clerk shall maintain the notice of extension**  
3 **or modification of a foreign protection order in the court's file.**

4 SECTION 10. IC 5-2-9-7 IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Any information:

6 (1) in a confidential form or any part of a confidential form  
7 prescribed or approved by the division of state court  
8 administration that must be filed with an **Indiana order or**  
9 **foreign protection order;** or

10 (2) otherwise acquired concerning a protected person, **except the**  
11 **nonconfidential part of a petition for a protective order that**  
12 **is prescribed or approved by the division of state court**  
13 **administration under IC 34-26-2-2(2);**

14 is confidential and may not be divulged to any respondent or defendant.

15 (b) Information described in subsection (a) may only be used by:

- 16 (1) a court;
- 17 (2) a sheriff;
- 18 (3) another law enforcement agency;
- 19 (4) a prosecuting attorney; or
- 20 (5) a court clerk;

21 to comply with a law concerning the distribution of the information.

22 SECTION 11. IC 5-2-9-8 IS AMENDED TO READ AS FOLLOWS  
23 [EFFECTIVE JULY 1, 2001]: Sec. 8. A law enforcement agency that  
24 receives a copy of an **Indiana order or foreign protection order** shall  
25 enter the information received into the Indiana data and communication  
26 system (IDACS) computer under IC 5-2-5-12.

27 SECTION 12. IC 33-11.6-4-15 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) **Subject to**  
29 **subsection (c),** the costs consist of:

30 (1) a township docket fee equal to five dollars (\$5) plus forty-five  
31 percent (45%) of the infraction or ordinance violation costs fee  
32 under IC 33-19-5-2;

33 (2) bailiff's service of process by registered or certified mail fee  
34 of six dollars (\$6) for each service;

35 (3) the cost for the personal service of process by the bailiff or  
36 other process server in the amount of eight dollars (\$8) for each  
37 service, with the exception that:

38 (A) personal service to execute a warrant for a protective order  
39 under IC 34-26-2 (or IC 34-4-5.1 before its repeal) shall cost  
40 a fee of twelve dollars (\$12); and

41 (B) writs of restitution and writs of replevin shall cost a fee of  
42 twelve dollars (\$12);

C  
o  
p  
y



- 1 (4) witness fees, if any, in the amount provided by IC 33-19-1-6
- 2 to be taxed and charged in the circuit court of the county; and
- 3 (5) a redocketing fee, if any, of five dollars (\$5).

4 **Subject to subsection (c)**, the docket fee and the cost for the initial  
 5 service of process shall be paid upon the institution of each case.  
 6 **Subject to subsection (c)**, the cost of service rendered subsequent to  
 7 the initial service shall be assessed and paid after such service has been  
 8 made, and the cost of witness fees shall be paid before the witnesses  
 9 are called.

10 (b) If the amount of the township docket fee computed under  
 11 subsection (a)(1) is not equal to a whole number, the amount shall be  
 12 rounded to the next highest whole number.

13 **(c) The provisions of IC 33-19-4.5 (costs related to domestic**  
 14 **violence offenses) apply to a small claims court, bailiff, sheriff, and**  
 15 **witnesses to the same extent as if the small claims court were a**  
 16 **court listed in IC 33-19-1-1.**

17 SECTION 13. IC 33-17-1-11 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The clerk shall  
 19 provide each person filing a petition for the issuance of a protective  
 20 order under IC 34-26-2 without the assistance of an attorney the  
 21 following information:

- 22 (1) The procedure for obtaining a protective order.
- 23 (2) When a protective order becomes effective.
- 24 (3) Procedures to follow when a protective order is violated.
- 25 **(4) Information concerning the waiver of fees under**  
 26 **IC 33-19-2-6.**

27 (b) The information required under subsection (a) must be printed  
 28 in a manner that can be easily understood by a person who is not an  
 29 attorney.

30 (c) The attorney general shall develop an appropriate form to  
 31 provide the information referred to in subsection (a).

32 SECTION 14. IC 33-19-4.5 IS ADDED TO THE INDIANA CODE  
 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2001]:

35 **Chapter 4.5. Costs Related to Domestic Violence Offenses**

36 **Sec. 1. This chapter applies to a person who files a motion,**  
 37 **petition, or complaint with a court seeking a protective order or an**  
 38 **order to enforce a foreign protection order to protect the person**  
 39 **from any of the following:**

- 40 **(1) Domestic violence.**
- 41 **(2) Sexual assault.**
- 42 **(3) Stalking.**



C  
o  
p  
y

1           **Sec. 2. (a) As used in this chapter, "domestic violence" means**  
2 **conduct against a person who is a family or household member**  
3 **that is prohibited by:**

4           **(1) a misdemeanor or felony under the laws of the United**  
5 **States, a state, or an Indian tribe that has as an element the**  
6 **use, attempted use, or threatened use of physical force against**  
7 **the person or property of another; or**

8           **(2) any other misdemeanor or felony under the laws of the**  
9 **United States, a state, or an Indian tribe that, by its nature,**  
10 **involves a substantial risk that physical force against the**  
11 **person or property of another may be used in the course of**  
12 **committing the offense;**

13 **regardless of whether the conduct results in criminal prosecution**  
14 **or the person who engages in the conduct is an adult.**

15           **(b) The term does not include an act of self-defense.**

16           **Sec. 3. For purposes of this chapter, a person is a family or**  
17 **household member of another person if the person is any of the**  
18 **following:**

19           **(1) A spouse or former spouse of the other person.**

20           **(2) A person who has a child in common with the other**  
21 **person.**

22           **(3) A person who is living or was living with the other person.**

23           **(4) A person who is dating or was dating the other person.**

24           **(5) A person who is having a sexual relationship or was having**  
25 **a sexual relationship with the other person.**

26           **(6) The natural or adopted child of the other person.**

27           **(7) A person less than eighteen (18) years of age who is related**  
28 **to a person described in subdivisions (1) through (6).**

29           **Sec. 4. As used in this chapter, "foreign protection order" has**  
30 **the meaning set forth in IC 34-6-2-48.5.**

31           **Sec. 5. As used in this chapter, "Indian tribe" has the meaning**  
32 **set forth in IC 34-6-2-66.7.**

33           **Sec. 6. As used in this chapter, "protective order" has the**  
34 **meaning set forth for "protection order" in IC 34-6-2-121.6.**

35           **Sec. 7. As used in this chapter, "sexual assault" means conduct**  
36 **that is:**

37           **(1) prohibited by IC 35-42-4 (sex crimes), IC 35-44-7 (sexual**  
38 **misconduct by a service provider with a detainee), or**  
39 **IC 35-46-1-3 (incest);**

40           **(2) prohibited by a misdemeanor or felony under the laws of**  
41 **the United State, a state, or an Indian tribe that is**  
42 **substantially similar to an offense described in subdivision**

C  
O  
P  
Y



1 (1); or  
 2 (3) an attempt to engage in conduct described in subdivision  
 3 (1) or (2);  
 4 regardless of whether the conduct results in criminal prosecution  
 5 or the person who engages in the conduct is an adult.

6 Sec. 8. As used in this chapter, "stalking" means conduct that is:  
 7 (1) prohibited by IC 35-45-10-5 (stalking);  
 8 (2) prohibited by a misdemeanor or felony under the laws of  
 9 the United State, a state, or an Indian tribe that is  
 10 substantially similar to an offense described in subdivision  
 11 (1); or  
 12 (3) an attempt to engage in conduct described in subdivision  
 13 (1) or (2);  
 14 regardless of whether the conduct results in criminal prosecution  
 15 or the person who engages in the conduct is an adult.

16 Sec. 9. Notwithstanding any other law, the clerk may not collect  
 17 a fee or other reimbursement for the filing, issuance, registration,  
 18 or service of any of the following:

- 19 (1) A warrant related to an action for a protective order or to
- 20 enforce a foreign protection order.
- 21 (2) A motion, petition, or complaint for a protective order or
- 22 to enforce a foreign protection order.
- 23 (3) A protective order or an order enforcing a foreign
- 24 protection order.
- 25 (4) A witness subpoena related to an action for a protective
- 26 order or to enforce a foreign protection order.

27 If a person seeks a protective order or an order enforcing a foreign  
 28 protection order as part of another proceeding, the clerk may not  
 29 collect a separate fee or reimbursement for the filing, issuance,  
 30 registration, or service of the papers described in subdivisions (1)  
 31 through (4).

32 Sec. 10. Prepayment of costs described in section 9 of this  
 33 chapter are not required if the person, or a person acting on the  
 34 person's behalf, alleges under oath or affirmation in the motion,  
 35 petition, or complaint seeking the protective order or order  
 36 enforcing a foreign protection order that the person is or fears that  
 37 the person will be a victim of domestic violence, sexual assault, or  
 38 stalking.

39 Sec. 11. Unless the court finds evidence of fraud, the court shall  
 40 waive the obligation that the person seeking the protective order or  
 41 order enforcing a foreign protection order would otherwise have  
 42 to pay the costs described in section 9 of this chapter if:

C  
 O  
 P  
 Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

- (1) the person, or another person acting on the person's behalf, makes the allegations described in section 10 of this chapter; or**
- (2) the court otherwise determines that the person is a person seeking protection from domestic violence, sexual assault, or stalking.**

**Sec. 12. This section does not prevent the collecting of costs from a party against whom a protective order or order enforcing a foreign protection order is sought.**

SECTION 15. IC 33-19-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter.

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100). ~~except as provided in subsection (b):~~

~~(b) For each proceeding for the issuance of a protective order under IC 34-26-2:~~

- ~~(1) the clerk shall initially collect thirty-five dollars (\$35) of the civil costs fee from the party that filed the action or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and~~
- ~~(2) upon disposition of the protective order petition under IC 34-26-2, the court may order that:~~

~~(A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65), be assessed against the respondent in the action as provided in IC 34-26-2-4 or against the party that filed the action; and~~

~~(B) the initial thirty-five dollar (\$35) civil costs fee be reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action as provided in IC 34-26-2-4.~~

~~(c) (b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:~~

- ~~(1) A document fee.~~

C  
o  
p  
y





1 (2) A support and maintenance fee.

2 SECTION 16. IC 34-6-2-21.2 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2001]: **Sec. 21.2. "City or town law**  
5 **enforcement agency"**, for purposes of IC 34-26-2.5-15, means the  
6 **department or agency of a city or town whose principal function is**  
7 **the apprehension of criminal offenders.**

8 SECTION 17. IC 34-6-2-48.5 IS ADDED TO THE INDIANA  
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2001]: **Sec. 71.5. "Foreign protection order"**,  
11 **for purposes of IC 34-26-2.5, means a protection order issued by a**  
12 **tribunal of:**

13 (1) **another state; or**

14 (2) **an Indian tribe;**

15 **regardless of whether the protection order was issued in an**  
16 **independent proceeding or as part of another criminal or civil**  
17 **proceeding.**

18 SECTION 18. IC 34-6-2-49 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 49. "Governmental  
20 entity", for purposes of IC 34-13-2, IC 34-13-3, ~~and~~ IC 34-13-4, **and**  
21 **IC 34-26-2.5**, means the state or a political subdivision of the state.

22 SECTION 19. IC 34-6-2-64 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 64. "In good faith", for  
24 purposes of **IC 34-26-2.5 and** IC 34-30-15, refers to an act taken:

25 (1) without malice;

26 (2) after a reasonable effort to obtain the facts of the matter; and

27 (3) in the reasonable belief that the action taken is warranted by  
28 the facts known.

29 SECTION 20. IC 34-6-2-66.7 IS ADDED TO THE INDIANA  
30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
31 [EFFECTIVE JULY 1, 2001]: **Sec. 66.7. "Indian tribe"**, for purposes  
32 **of sections 48.5, 71.7, and 121.6 of this chapter and IC 34-26-2.5,**  
33 **means an Indian:**

34 (1) **tribe;**

35 (2) **band;**

36 (3) **pueblo;**

37 (4) **nation; or**

38 (5) **group or community that is organized, including an Alaska**  
39 **Native village or regional or village corporation as defined in**  
40 **or established under the Alaska Native Claims Settlement Act**  
41 **(43 U.S.C. 1601 et seq.);**

42 **that is recognized as eligible for the special programs and services**



C  
o  
p  
y

1 provided by the United States to Indians because of their special  
2 status as Indians.

3 SECTION 21. IC 34-6-2-71.7 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2001]: **Sec. 71.7. "Issuing state or Indian  
6 tribe", for purposes of IC 34-26-2.5, means the state or Indian tribe  
7 whose tribunal issues a protection order.**

8 SECTION 22. IC 34-6-2-73.3 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2001]: **Sec. 73.3. "Law enforcement officer",  
11 for purposes of IC 34-26-2.5, has the meaning set forth in  
12 IC 35-41-1-17.**

13 SECTION 23. IC 34-6-2-86.4 IS ADDED TO THE INDIANA  
14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2001]: **Sec. 86.4. "Mutual foreign protection  
16 order", for purposes of IC 34-26-2.5, means a foreign protection  
17 order that includes provisions in favor of both the protected  
18 individual seeking enforcement of the order and the respondent.**

19 SECTION 24. IC 34-6-2-121.4 IS ADDED TO THE INDIANA  
20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2001]: **Sec. 121.4. "Protected individual", for  
22 purposes of section 86.4 of this chapter and IC 34-26-2.5, means an  
23 individual protected by a protection order.**

24 SECTION 25. IC 34-6-2-121.6 IS ADDED TO THE INDIANA  
25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 2001]: **Sec. 121.6. (a) "Protection order", for  
27 purposes of sections 48.5, 121.4, and 130.7 of this chapter and  
28 IC 34-26-2.5, means an injunction or other order, issued by a  
29 tribunal of the issuing state or Indian tribe, to prevent an  
30 individual from engaging in:**

- 31 (1) violent or threatening acts against;
- 32 (2) harassment of;
- 33 (3) contact or communication with; or
- 34 (4) physical proximity to;

35 another person, including temporary and final orders issued by  
36 civil and criminal courts.

37 (b) The term does not include a support or child custody order  
38 issued under the dissolution and child custody laws of a state or  
39 Indian tribe, except to the extent that the order is entitled to full  
40 faith and credit under a federal law other than 18 U.S.C. 2265.

41 (c) The term applies to an order regardless of whether the order  
42 is obtained by filing an independent action or as a pendente lite



C  
o  
p  
y

1 **order in another proceeding if any civil order was issued in**  
2 **response to a complaint, petition, or motion filed by or on behalf of**  
3 **a person seeking protection.**

4 SECTION 26. IC 34-6-2-123 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 123. "Public  
6 employee", for purposes of IC 34-13-2, IC 34-13-3, ~~and~~ IC 34-13-4,  
7 **and IC 34-26-2.5**, has the meaning set forth in section 38 of this  
8 chapter.

9 SECTION 27. IC 34-6-2-130.7 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2001]: **Sec. 130.7. "Respondent", for**  
12 **purposes of section 86.4 of this chapter and IC 34-26-2.5, means the**  
13 **individual against whom the enforcement of a protection order is**  
14 **sought.**

15 SECTION 28. IC 34-6-2-138 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 138. "Sheriff":

17 **(1) for purposes of IC 34-26-2.5, refers to the county sheriff;**  
18 **and**

19 **(2) for purposes of IC 34-47-4, means the sheriff of the county in**  
20 **which a court issues a writ of attachment under IC 34-47-4 (or**  
21 **IC 34-4-9 before its repeal).**

22 SECTION 29. IC 34-6-2-140 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 140. "State":

24 **(1) for purposes of IC 34-13-3 means Indiana and its state**  
25 **agencies; and**

26 **(2) for purposes of sections 48.5 and 71.7 of this chapter and**  
27 **IC 34-26-2.5, has the meaning set forth in IC 1-1-4-5.**

28 SECTION 30. IC 34-6-2-144.2 IS ADDED TO THE INDIANA  
29 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2001]: **Sec. 144.2. "Tribunal", for purposes**  
31 **of sections 48.5 and 121.6 of this chapter and IC 34-26-2.5, means**  
32 **a court, agency, or other entity authorized by law to issue or**  
33 **modify a protection order.**

34 SECTION 31. IC 34-13-3-3, AS AMENDED BY P.L.142-1999,  
35 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2001]: Sec. 3. A governmental entity or an employee acting  
37 within the scope of the employee's employment is not liable if a loss  
38 results from:

- 39 (1) the natural condition of unimproved property;  
40 (2) the condition of a reservoir, dam, canal, conduit, drain, or  
41 similar structure when used by a person for a purpose that is not  
42 foreseeable;

C  
o  
p  
y



- 1 (3) the temporary condition of a public thoroughfare that results  
 2 from weather;
- 3 (4) the condition of an unpaved road, trail, or footpath, the  
 4 purpose of which is to provide access to a recreation or scenic  
 5 area;
- 6 (5) the initiation of a judicial or an administrative proceeding;
- 7 (6) the performance of a discretionary function; however, the  
 8 provision of medical or optical care as provided in IC 34-6-2-38  
 9 shall be considered as a ministerial act;
- 10 (7) the adoption and enforcement of or failure to adopt or enforce  
 11 a law (including rules and regulations), unless the act of  
 12 enforcement constitutes false arrest or false imprisonment;
- 13 (8) an act or omission performed in good faith and without malice  
 14 under the apparent authority of a statute **or court order** which is  
 15 invalid, **including an arrest or imprisonment related to the**  
 16 **enforcement of a statute or court order**, if the employee would  
 17 not have been liable had the statute **or court order** been valid;
- 18 (9) the act or omission of anyone other than the governmental  
 19 entity or the governmental entity's employee;
- 20 (10) the issuance, denial, suspension, or revocation of, or failure  
 21 or refusal to issue, deny, suspend, or revoke, any permit, license,  
 22 certificate, approval, order, or similar authorization, where the  
 23 authority is discretionary under the law;
- 24 (11) failure to make an inspection, or making an inadequate or  
 25 negligent inspection, of any property, other than the property of  
 26 a governmental entity, to determine whether the property  
 27 complied with or violates any law or contains a hazard to health  
 28 or safety;
- 29 (12) entry upon any property where the entry is expressly or  
 30 impliedly authorized by law;
- 31 (13) misrepresentation if unintentional;
- 32 (14) theft by another person of money in the employee's official  
 33 custody, unless the loss was sustained because of the employee's  
 34 own negligent or wrongful act or omission;
- 35 (15) injury to the property of a person under the jurisdiction and  
 36 control of the department of correction if the person has not  
 37 exhausted the administrative remedies and procedures provided  
 38 by section 7 of this chapter;
- 39 (16) injury to the person or property of a person under supervision  
 40 of a governmental entity and who is:
- 41 (A) on probation; or
- 42 (B) assigned to an alcohol and drug services program under

C  
 O  
 P  
 Y



1 IC 12-23, a minimum security release program under  
 2 IC 11-10-8, or a community corrections program under  
 3 IC 11-12;  
 4 (17) design of a highway (as defined in IC 9-13-2-73) if the  
 5 claimed loss occurs at least twenty (20) years after the public  
 6 highway was designed or substantially redesigned; except that  
 7 this subdivision shall not be construed to relieve a responsible  
 8 governmental entity from the continuing duty to provide and  
 9 maintain public highways in a reasonably safe condition;  
 10 (18) development, adoption, implementation, operation,  
 11 maintenance, or use of an enhanced emergency communication  
 12 system;  
 13 (19) injury to a student or a student's property by an employee of  
 14 a school corporation if the employee is acting reasonably under a  
 15 discipline policy adopted under IC 20-8.1-5.1-7(b); ~~or~~  
 16 (20) an error resulting from or caused by a failure to recognize the  
 17 year 1999, 2000, or a subsequent year, including an incorrect date  
 18 or incorrect mechanical or electronic interpretation of a date, that  
 19 is produced, calculated, or generated by:  
 20 (A) a computer;  
 21 (B) an information system; or  
 22 (C) equipment using microchips;  
 23 that is owned or operated by a governmental entity. However, this  
 24 subdivision does not apply to acts or omissions amounting to  
 25 gross negligence, willful or wanton misconduct, or intentional  
 26 misconduct. For purposes of this subdivision, evidence of gross  
 27 negligence may be established by a party by showing failure of a  
 28 governmental entity to undertake an effort to review, analyze,  
 29 remediate, and test its electronic information systems or by  
 30 showing failure of a governmental entity to abate, upon notice, an  
 31 electronic information system error that caused damage or loss;  
 32 **or**  
 33 **(21) an act or omission performed in good faith and without**  
 34 **malice under the apparent authority of a court order**  
 35 **described in IC 35-46-1-15.1 that is invalid, including an**  
 36 **arrest or imprisonment related to the enforcement of the**  
 37 **court order, if the employee would not have been liable had**  
 38 **the court order been valid.**  
 39 However, subdivision (20) expires on June 30, 2003.  
 40 SECTION 32. IC 34-26-2-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A person may  
 42 petition any court of record **or a small claims court established under**

C  
O  
P  
Y



1 **IC 33-11.6-1-3** for a protective order on behalf of that person or a  
 2 member of the petitioner's household.  
 3 SECTION 33. IC 34-26-2-2 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The petition:  
 5 (1) must include the name of the petitioner and the name and  
 6 address (if known) of the respondent;  
 7 (2) must include, **on a separate or detachable nonconfidential**  
 8 **form prescribed or approved by the division of state court**  
 9 **administration:**  
 10 (A) any allegation concerning the date or manner of specific  
 11 acts or feared acts of abuse, harassment, or disruption of the  
 12 peace of the petitioner or members of the petitioner's  
 13 household or any allegations concerning specific damage to or  
 14 the fear of damage to any property of the petitioner; **and**  
 15 **(B) if the petitioner is requesting that the respondent**  
 16 **refrain from entering or damaging real property, an**  
 17 **indication of whether the petitioner knows or believes that**  
 18 **the petitioner and the respondent are disputing who owns,**  
 19 **or has a lease or easement to use, the real property;**  
 20 (3) must include a request that, if the court grants the protective  
 21 order, the court shall order the respondent:  
 22 (A) to refrain from abusing, harassing, or disturbing the peace  
 23 of the petitioner, by either direct or indirect contact;  
 24 (B) to refrain from abusing, harassing, or disturbing the peace  
 25 of a member of the petitioner's household, by either direct or  
 26 indirect contact;  
 27 (C) to refrain from entering the property of the petitioner,  
 28 jointly owned or leased property of the petitioner and  
 29 respondent if the respondent is not the sole owner or lessee, or  
 30 any other property as specifically described in the petition;  
 31 (D) to refrain from damaging any property of the petitioner;  
 32 (E) if the petitioner and respondent are married and if a  
 33 proceeding for dissolution of marriage or legal separation is  
 34 not pending:  
 35 (i) to be evicted from the dwelling of the petitioner if the  
 36 respondent is not the sole owner or lessee of the petitioner's  
 37 dwelling;  
 38 (ii) to not transfer, encumber, damage, conceal, or otherwise  
 39 dispose of property jointly owned with the petitioner or that  
 40 is an asset of the marriage;  
 41 (iii) to pay child support to the custodian of any minor  
 42 children of the parties alone or with the other party;

C  
o  
p  
y



- 1 (iv) to pay maintenance to the other party; or
- 2 (v) to perform a combination of acts listed in items (i)
- 3 through (iv);
- 4 (4) must be sworn to by the petitioner;
- 5 (5) must include a request that the court set a date for a protective
- 6 order hearing under this chapter;
- 7 (6) must be accompanied by a confidential form concerning
- 8 protective orders prescribed or approved by the division of state
- 9 court administration; and
- 10 (7) may include a request that the court order counseling or other
- 11 social services, including domestic violence education, for the
- 12 petitioner, the respondent, or both.

13 SECTION 34. IC 34-26-2-4 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a) The court:**

- 15 **(1) shall order the clerk of the court to waive any filing fees**
- 16 **required for a proceeding under this chapter if IC 33-19-4.5**
- 17 **applies; and**
- 18 **(2) may order filing fees to be paid by the respondent after a**
- 19 **hearing held under this chapter.**

20 **(b) The court may:**

- 21 (1) order the clerk of the court to waive any filing fees required
- 22 **for a proceeding** under this chapter if the petitioner demonstrates
- 23 by affidavit that the petitioner is unable to pay the fees due to all
- 24 relevant circumstances; and
- 25 (2) order filing fees to be paid by the respondent after a hearing
- 26 held under this chapter.

27 SECTION 35. IC 34-26-2-6 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. **(a) The emergency**  
 29 **protective order issued under section 5 of this chapter may direct the**  
 30 **respondent to refrain from:**

- 31 (1) abusing, harassing, or disturbing the peace of the petitioner by
- 32 either direct or indirect contact;
- 33 (2) abusing, harassing, or disturbing the peace of a member of the
- 34 petitioner's household, by either direct or indirect contact;
- 35 (3) entering the property of the petitioner or any other property as
- 36 specifically described in the petition; or
- 37 (4) damaging any property of the petitioner.

38 **(b) If the court determines on the face of the petition that the**  
 39 **petition for a protective order arises out of a dispute over who**  
 40 **owns, or has a lease or an easement to use, real property, the court**  
 41 **may:**

- 42 **(1) issue an emergency protective order under subsection (a)**

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**without an order under subsection (a)(3); or  
(2) deny the emergency protective order, if the likelihood of  
future abuse or harassment is insubstantial.**

SECTION 36. IC 34-26-2-11 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) When a petition  
is filed, the clerk shall issue a summons to appear at a hearing to the  
respondent that:

- (1) gives notice of the date, time, and place of the hearing; and
- (2) informs the respondent that the respondent must appear before  
the court to answer the petition.

(b) The clerk shall serve the respondent with:

- (1) the summons to appear; **and**
- (2) a copy of the nonconfidential for submitted as part of the  
petition under section 2(2) of this chapter;**

in accordance with Rule 4.1 of the Rules of Trial Procedure.

**(c) Before complying with subsection (b)(2), the clerk shall  
separate the nonconfidential form submitted under section 2(2) of  
this chapter from the remainder of the petition.**

SECTION 37. IC 34-26-2-12, AS AMENDED BY P.L.14-2000,  
SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2002]: Sec. 12. (a) A court shall set a date for a hearing  
concerning a petition described in section 2 of this chapter not more  
than thirty (30) days after the date the petition is filed with the court.  
At the hearing, if at least one (1) of the allegations described in the  
petition is proved by a preponderance of the evidence, the court:

- (1) shall order the respondent:
  - (A) to refrain from abusing, harassing, or disturbing the peace  
of the petitioner, by either direct or indirect contact;
  - (B) to refrain from abusing, harassing, or disturbing the peace  
of a member of the petitioner's household, by either direct or  
indirect contact;
  - (C) to refrain from entering the property of the petitioner,  
jointly owned or leased property of the petitioner and the  
respondent if the respondent is not the sole owner or lessee, or  
any other property as specifically described in the petition;
  - (D) to refrain from damaging any property of the petitioner;  
and
  - (E) if the petitioner and respondent are married and if a  
proceeding for dissolution of marriage or legal separation is  
not pending:
    - (i) to be evicted from the dwelling of the petitioner if the  
respondent is not the sole owner or lessee of the petitioner's

C  
O  
P  
Y





- 1 dwelling;
- 2 (ii) to not transfer, encumber, damage, conceal, or otherwise
- 3 dispose of property jointly owned with the petitioner or that
- 4 is an asset of the marriage;
- 5 (iii) to pay child support to the custodian of any minor
- 6 children of the parties alone or with the other party;
- 7 (iv) to pay maintenance to the other party; or
- 8 (v) to perform a combination of the acts described in items
- 9 (i) through (iv);
- 10 (2) may order the respondent to refrain from possessing a firearm
- 11 (as defined in IC 35-47-1-5) during a period not longer than the
- 12 period that the respondent is under the protective order if the
- 13 court finds by clear and convincing evidence that the respondent
- 14 poses a significant threat of inflicting serious bodily injury to the
- 15 petitioner or a member of the petitioner's household or family; and
- 16 (3) may order counseling or other social services, including
- 17 domestic violence education, for the petitioner or the respondent,
- 18 or both, and may order the respondent to pay the costs of
- 19 obtaining counseling or other social services for the petitioner or
- 20 the respondent, or both.

21 If the court prohibits the respondent from possessing a firearm under  
 22 subdivision (2), the court shall notify the state police department of the  
 23 restriction. The court may also order the confiscation under IC 35-47-3  
 24 of any firearms that the court finds the respondent to possess during the  
 25 period that the protective order is in effect.

26 **(b) If the court determines that the petition for a protective**  
 27 **order arises out of a dispute over who owns, or has a lease or an**  
 28 **easement to use, real property, the court may:**

- 29 **(1) issue a protective order under subsection (a) without an**
- 30 **order under subsection (a)(1)(C) or (a)(1)(D), or both; or**
- 31 **(2) deny the petition for a protective order, if the likelihood of**
- 32 **future abuse or harassment against a petitioner is**
- 33 **insubstantial.**

34 SECTION 38. IC 34-26-2-18 IS ADDED TO THE INDIANA  
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2001]: **Sec. 18. If a respondent is ordered to**  
 37 **stay away from a petitioner, an invitation by a petitioner to a**  
 38 **petitioner's residence or other place where a petitioner is located,**  
 39 **does not:**

- 40 **(1) allow the respondent to go to the residence or other place**
- 41 **where a petitioner is located; or**
- 42 **(2) waive or nullify any relief provided by the court in the**

C  
O  
P  
Y



**order of protection.**

SECTION 39. IC 34-26-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 2.5. Enforcement of Foreign Protection Orders**

**Sec. 1. This chapter applies to a foreign protection order issued by a tribunal of the following:**

- (1) Another state.
- (2) An Indian tribe.

**Sec. 2. A valid foreign protection order shall be accorded full faith and credit by the courts in Indiana. A court in Indiana may not enforce a foreign protection order issued by a tribunal of an issuing state or Indian tribe only if the issuing state or Indian tribe does not recognize the standing of a protected individual to seek enforcement of the order.**

**Sec. 3. A person authorized by Indiana law to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a circuit, superior, or probate court in Indiana.**

**Sec. 4. A circuit, superior, or probate court shall enforce the protection order provisions of an order issued by a tribunal, regardless of whether the order was obtained in an independent proceeding or as part of another proceeding. In a proceeding to enforce a foreign protection order, the circuit, superior, or probate court shall follow Indiana procedures for the enforcement of protection orders.**

**Sec. 5. A foreign protection order is valid if it:**

- (1) identifies the protected individual and the respondent;
- (2) is currently in effect;
- (3) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state or Indian tribe; and
- (4) either:
  - (A) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order; or
  - (B) in the case of an order ex parte, the respondent was given notice and had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.

**Sec. 6. A foreign protection order valid on its face is prima facie evidence of its validity.**

**Sec. 7. Absence of any of the criteria for validity of a foreign**

C  
O  
P  
Y



1 protection order is an affirmative defense in an action seeking  
 2 enforcement of the order or charging a person with a crime for  
 3 violation of the foreign protection order.

4 **Sec. 8. A circuit, superior, or probate court in Indiana may**  
 5 **enforce mutual protection order provisions of an order of an**  
 6 **issuing state or Indian tribe that favor a respondent only if:**

7 (1) the respondent files a written pleading seeking a protection  
 8 order from the tribunal of the issuing state or Indian tribe;  
 9 and

10 (2) the tribunal of the issuing state or Indian tribe makes  
 11 specific findings in favor of the respondent.

12 **Sec. 9. If IC 33-19-4.5 applies to the protected individual, no**  
 13 **costs or fees may be imposed against a protected individual in a**  
 14 **proceeding commenced to enforce a foreign protection order.**

15 **Sec. 10. (a) A law enforcement officer, upon determining that:**

16 (1) there is probable cause to believe that a valid foreign  
 17 protection order exists; and

18 (2) the order has been violated;

19 shall enforce the order as if it were the order of an Indiana court.  
 20 Presentation of a foreign protection order that identifies both the  
 21 protected individual and the respondent and, on its face, is  
 22 currently in effect constitutes probable cause to believe that a valid  
 23 foreign protection order exists. For purposes of this section, the  
 24 protection order may be inscribed on a tangible medium or may  
 25 have been stored in an electronic or other medium if it is  
 26 retrievable in perceivable form. Presentation of a certified copy of  
 27 a protection order is not required for enforcement.

28 (b) If a foreign protection order is not presented, an Indiana law  
 29 enforcement officer may consider other information in  
 30 determining whether there is probable cause to believe that a valid  
 31 foreign protection order exists, including information from the  
 32 National Crime Information Center (NCIC) protection order file,  
 33 Indiana data and communication system (IDACS) under IC 5-2-5,  
 34 or a depository established under IC 5-2-9-5.

35 (c) If an Indiana law enforcement officer determines that an  
 36 otherwise valid foreign protection order cannot be enforced  
 37 because the respondent has not been notified or served with the  
 38 order, the officer shall:

39 (1) inform the respondent of the order;

40 (2) make a reasonable effort to serve the order upon the  
 41 respondent; and

42 (3) allow the respondent a reasonable opportunity to comply

C  
O  
P  
Y



1 with the order before enforcing the order.

2 (d) Registration or filing of an order in Indiana or in the  
3 National Crime Information Center (NCIC) protection order file  
4 is not required for the enforcement of a valid foreign protection  
5 order. Commencement of an action under section 3 of this chapter  
6 is not required for the enforcement of a valid foreign protection  
7 order.

8 Sec. 11. Any individual may register a valid foreign protection  
9 order in Indiana. To register a foreign protection order, an  
10 individual must present the information required under section 12  
11 of this chapter to a county clerk in the judicial district where the  
12 protected person resides.

13 Sec. 12. A county clerk shall accept a foreign protection order  
14 for registration upon presentation of the following:

15 (1) A copy of a foreign protection order.

16 (2) A completed form prescribed or approved by the division  
17 of state court administration for the registration of foreign  
18 protective orders that includes a format for the protected  
19 individual to provide a statement under affirmation that, to  
20 the best of the protected individual's knowledge, the order is  
21 currently in effect.

22 Registration, including the preparation of necessary copies, shall  
23 be without fee or cost.

24 Sec. 13. The county clerk may not notify the party against whom  
25 the order has been made that a foreign protection order has been  
26 registered.

27 Sec. 14. If the foreign protection order appears to be valid on its  
28 face, the county clerk shall:

29 (1) comply with IC 5-2-9-6.3; and

30 (2) provide the petitioner with a copy bearing proof of filing  
31 with the county clerk.

32 Sec. 15. Upon receipt of a copy of a foreign protection order  
33 under section 14 of this chapter, a city or town law enforcement  
34 agency or sheriff shall comply with IC 5-2-5-12 and IC 5-2-9-6.3.

35 Sec. 16. (a) If a foreign protection order filed with a county clerk  
36 under section 11 of this chapter is terminated or expires, the  
37 person who obtained the foreign protection order must:

38 (1) file a notice of termination on a form prescribed or  
39 approved by the division of state court administration; and

40 (2) file a copy of the order terminating the foreign protection  
41 order, if terminated by an order other than the foreign  
42 protection order;



C  
O  
P  
Y

1 with the county clerk in Indiana with whom the foreign protection  
2 order was filed.

3 (b) If a foreign protection order filed with a county clerk under  
4 section 11 of this chapter is extended or modified, the person who  
5 obtained the extension or modification must file:

- 6 (1) a notice of extension or modification on a form prescribed
- 7 or approved by the division of state court administration; and
- 8 (2) a copy of the order extending or modifying the foreign
- 9 protection order;

10 with the county clerk in Indiana with whom the foreign protection  
11 order was filed.

12 Sec. 17. A county clerk shall:

- 13 (1) accept a notice and order filed under section 16 of this
- 14 chapter from a protected individual without charge; and
- 15 (2) comply with IC 5-2-9-6.3.

16 Sec. 18. A county clerk shall provide a protected person with  
17 forms:

- 18 (1) prescribed or approved by the division of state court
- 19 administration; and
- 20 (2) required under section 12 or 16 of this chapter;
- 21 without charge.

22 Sec. 19. A circuit, superior, or probate court in Indiana may not  
23 enforce under this chapter a provision of a foreign protection order  
24 with respect to support. A provision concerning support may be  
25 enforced under IC 31-18.

26 Sec. 20. A circuit, superior, or probate court in Indiana may not  
27 enforce under this chapter a provision of a foreign protection order  
28 with respect to custody. A provision concerning custody may be  
29 enforced under IC 31-17-3.

30 Sec. 21. The provisions of IC 34-13-3-3 apply to an act or  
31 omission by a governmental entity or an employee arising out of  
32 the:

- 33 (1) registration or enforcement of a foreign protection order;
- 34 or
- 35 (2) detention or arrest of an alleged violator of a foreign
- 36 protection order.

37 Sec. 22. A protected individual who pursues remedies under this  
38 chapter may pursue other legal or equitable remedies against the  
39 respondent.

40 SECTION 40. IC 35-38-1-7.1, AS AMENDED BY P.L.183-1999,  
41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2001]: Sec. 7.1. (a) In determining what sentence to impose

C  
o  
p  
y



- 1 for a crime, the court shall consider:
- 2 (1) the risk that the person will commit another crime;
- 3 (2) the nature and circumstances of the crime committed;
- 4 (3) the person's:
- 5 (A) prior criminal record;
- 6 (B) character; and
- 7 (C) condition;
- 8 (4) whether the victim of the crime was less than twelve (12)
- 9 years of age or at least sixty-five (65) years of age;
- 10 (5) whether the person violated a protective order issued against
- 11 the person under IC 31-15 or IC 31-16 (or IC 31-1-11.5 before its
- 12 repeal) or IC 34-26-2 (or IC 34-4-5.1 before its repeal); and
- 13 (6) any oral or written statement made by a victim of the crime.
- 14 (b) The court may consider the following factors as aggravating
- 15 circumstances or as favoring imposing consecutive terms of
- 16 imprisonment:
- 17 (1) The person has recently violated the conditions of any
- 18 probation, parole, or pardon granted to the person.
- 19 (2) The person has a history of criminal or delinquent activity.
- 20 (3) The person is in need of correctional or rehabilitative
- 21 treatment that can best be provided by commitment of the person
- 22 to a penal facility.
- 23 (4) Imposition of a reduced sentence or suspension of the
- 24 sentence and imposition of probation would depreciate the
- 25 seriousness of the crime.
- 26 (5) The victim of the crime was less than twelve (12) years of age
- 27 or at least sixty-five (65) years of age.
- 28 (6) The victim of the crime was mentally or physically infirm.
- 29 (7) The person committed a forcible felony while wearing a
- 30 garment designed to resist the penetration of a bullet.
- 31 (8) The person committed a sex crime listed in subsection (e) and:
- 32 (A) the crime created an epidemiologically demonstrated risk
- 33 of transmission of the human immunodeficiency virus (HIV)
- 34 and involved the sex organ of one (1) person and the mouth,
- 35 anus, or sex organ of another person;
- 36 (B) the person had knowledge that the person was a carrier of
- 37 HIV; and
- 38 (C) the person had received risk counseling as described in
- 39 subsection (g).
- 40 (9) The person committed an offense related to controlled
- 41 substances listed in subsection (f) if:
- 42 (A) the offense involved:

C  
O  
P  
Y



- 1 (i) the delivery by any person to another person; or
- 2 (ii) the use by any person on another person;
- 3 of a contaminated sharp (as defined in IC 16-41-16-2) or other
- 4 paraphernalia that creates an epidemiologically demonstrated
- 5 risk of transmission of HIV by involving percutaneous contact;
- 6 (B) the person had knowledge that the person was a carrier of
- 7 the human immunodeficiency virus (HIV); and
- 8 (C) the person had received risk counseling as described in
- 9 subsection (g).
- 10 (10) The person committed the offense in an area of a
- 11 consolidated or second class city that is designated as a public
- 12 safety improvement area by the Indiana criminal justice institute
- 13 under IC 36-8-19.5.
- 14 (11) The injury to or death of the victim of the crime was the
- 15 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 16 (12) Before the commission of the crime, the person administered
- 17 to the victim of the crime, without the victim's knowledge, a
- 18 sedating drug or a drug that had a hypnotic effect on the victim,
- 19 or the person had knowledge that such a drug had been
- 20 administered to the victim without the victim's knowledge.
- 21 (13) The person:
- 22 (A) committed trafficking with an inmate under IC 35-44-3-9;
- 23 and
- 24 (B) is an employee of the penal facility.
- 25 **(14) The person committed the offense in the presence or**
- 26 **within hearing of a person who is less than fifteen (15) years**
- 27 **of age who was not the victim of the offense.**
- 28 (c) The court may consider the following factors as mitigating
- 29 circumstances or as favoring suspending the sentence and imposing
- 30 probation:
- 31 (1) The crime neither caused nor threatened serious harm to
- 32 persons or property, or the person did not contemplate that it
- 33 would do so.
- 34 (2) The crime was the result of circumstances unlikely to recur.
- 35 (3) The victim of the crime induced or facilitated the offense.
- 36 (4) There are substantial grounds tending to excuse or justify the
- 37 crime, though failing to establish a defense.
- 38 (5) The person acted under strong provocation.
- 39 (6) The person has no history of delinquency or criminal activity,
- 40 or the person has led a law-abiding life for a substantial period
- 41 before commission of the crime.
- 42 (7) The person is likely to respond affirmatively to probation or

COPY



- 1 short term imprisonment.
- 2 (8) The character and attitudes of the person indicate that the
- 3 person is unlikely to commit another crime.
- 4 (9) The person has made or will make restitution to the victim of
- 5 the crime for the injury, damage, or loss sustained.
- 6 (10) Imprisonment of the person will result in undue hardship to
- 7 the person or the dependents of the person.
- 8 (11) The person was convicted of a crime involving the use of
- 9 force against a person who had repeatedly inflicted physical or
- 10 sexual abuse upon the convicted person and evidence shows that
- 11 the convicted person suffered from the effects of battery as a
- 12 result of the past course of conduct of the individual who is the
- 13 victim of the crime for which the person was convicted.
- 14 (d) The criteria listed in subsections (b) and (c) do not limit the
- 15 matters that the court may consider in determining the sentence.
- 16 (e) For the purposes of this article, the following crimes are
- 17 considered sex crimes:
  - 18 (1) Rape (IC 35-42-4-1).
  - 19 (2) Criminal deviate conduct (IC 35-42-4-2).
  - 20 (3) Child molesting (IC 35-42-4-3).
  - 21 (4) Child seduction (IC 35-42-4-7).
  - 22 (5) Prostitution (IC 35-45-4-2).
  - 23 (6) Patronizing a prostitute (IC 35-45-4-3).
  - 24 (7) Incest (IC 35-46-1-3).
  - 25 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).
- 26 (f) For the purposes of this article, the following crimes are
- 27 considered offenses related to controlled substances:
  - 28 (1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
  - 29 (2) Dealing in a schedule I, II, or III controlled substance
  - 30 (IC 35-48-4-2).
  - 31 (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
  - 32 (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
  - 33 (5) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
  - 34 (6) Possession of a controlled substance (IC 35-48-4-7).
  - 35 (7) Dealing in paraphernalia (IC 35-48-4-8.5).
  - 36 (8) Possession of paraphernalia (IC 35-48-4-8.3).
  - 37 (9) Offenses relating to registration (IC 35-48-4-14).
- 38 (g) For the purposes of this section, a person received risk
- 39 counseling if the person had been:
  - 40 (1) notified in person or in writing that tests have confirmed the
  - 41 presence of antibodies to the human immunodeficiency virus
  - 42 (HIV) in the person's blood; and

COPY





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

(2) warned of the behavior that can transmit HIV.

SECTION 41. IC 35-45-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who stalks another person commits stalking, a Class D felony.

(b) The offense is a Class C felony if at least one (1) of the following applies:

(1) A person:

- (A) stalks a victim; and
- (B) makes an explicit or an implicit threat with the intent to place the victim in reasonable fear of:
  - (i) sexual battery (as defined in IC 35-42-4-8);
  - (ii) serious bodily injury; or
  - (iii) death.

(2) A protective order or other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the order:

- (A) IC 31-15, IC 31-16, IC 31-17, or IC 31-1-11.5 before its repeal (dissolution of marriage, legal separation, child support, and child custody).
- (B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal (delinquent children and children in need of services).
- (C) IC 31-32 or IC 31-6-7 before its repeal (procedure in juvenile court).
- (D) IC 34-26-2 or IC 34-4-5.1 before its repeal (protective order to prevent abuse).

**(3) An order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion that orders the person to refrain from any direct or indirect contact with another person.**

**(4) An order issued as a condition of probation that orders the person to refrain from any direct or indirect contact with another person.**

**(5) A protective order issued under IC 31-14-16 in a paternity action.**

**(6) An order issued in another state that is substantially similar to an order described in subdivisions (2) through (5).**

**(7) An order that is substantially similar to an order described in subdivisions (2) through (5) and is issued by an Indian:**

- (A) tribe;**
- (B) band;**
- (C) pueblo;**

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**(D) nation; or  
(E) group or community that is organized, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.**

~~(8)~~ **(8)** A criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint.

- (c) The offense is a Class B felony if:
  - (1) the act or acts were committed while the person was armed with a deadly weapon; or
  - (2) the person has an unrelated conviction for an offense under this section against the same victim or victims.

(d) Notwithstanding subsection (a), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(C) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(C) do not limit the matters the court may consider in making its determination.

(e) Notwithstanding subsection (b), the court may enter judgment of conviction of a Class D felony and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(C) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(C) do not limit the matters the court may consider in making its determination.

SECTION 42. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15.1. (a) A person who knowingly or intentionally violates:

- (1) a protective order issued under:
  - (A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its repeal);
  - (B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its repeal); or
  - (C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its repeal);
 that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;
- (2) an emergency protective order issued under IC 34-26-2-6(1),

C  
o  
p  
y



- 1 IC 34-26-2-6(2), IC 34-26-2-6(3), (or IC 34-4-5.1-2.3(a)(1)(A),  
 2 IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their  
 3 repeal) that orders the respondent to refrain from abusing,  
 4 harassing, or disturbing the peace of the petitioner;  
 5 (3) a temporary restraining order issued under IC 31-15-4-3(2),  
 6 IC 31-15-4-3(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) (or  
 7 IC 31-1-11.5-7(b)(2) or IC 31-1-11.5-7(b)(3) before their repeal)  
 8 that orders the respondent to refrain from abusing, harassing, or  
 9 disturbing the peace of the petitioner;  
 10 (4) an order in a dispositional decree issued under IC 31-34-20-1,  
 11 IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or  
 12 IC 31-6-4-15.9 before their repeal) or an order issued under  
 13 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the  
 14 person to refrain from direct or indirect contact with a child in  
 15 need of services or a delinquent child;  
 16 (5) an order issued as a condition of pretrial release, **including**  
 17 **release on bail or personal recognizance**, or pretrial diversion  
 18 that orders the person to refrain from any direct or indirect contact  
 19 with another person;  
 20 (6) an order issued as a condition of probation that orders the  
 21 person to refrain from any direct or indirect contact with another  
 22 person;  
 23 (7) a protective order issued under IC 31-15-5 or IC 31-16-5 (or  
 24 IC 31-1-11.5-8.2 before its repeal) that orders the respondent to  
 25 refrain from abusing, harassing, or disturbing the peace of the  
 26 petitioner;  
 27 (8) a protective order issued under IC 31-14-16 in a paternity  
 28 action;  
 29 (9) a protective order issued under IC 31-34-17 in a child in need  
 30 of services proceeding or under IC 31-37-16 in a juvenile  
 31 delinquency proceeding that orders the respondent to refrain from  
 32 having direct or indirect contact with a child; ~~or~~  
 33 (10) an order issued in ~~a~~ **another** state ~~other than~~ **Indiana** that is  
 34 substantially similar to an order described in subdivisions (1)  
 35 through (9), **regardless of whether the order was issued in a**  
 36 **criminal or civil proceeding; or**  
 37 **(11) an order that is substantially similar to an order**  
 38 **described in subdivisions (1) through (9) and is issued by an**  
 39 **Indian:**  
 40 (A) tribe;  
 41 (B) band;  
 42 (C) pueblo;

C  
 O  
 P  
 Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**(D) nation; or  
(E) group or community that is organized, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians, regardless of whether the order was issued in a criminal or civil proceeding;**

commits invasion of privacy, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction for an offense under this section.

(b) In addition to any other penalty imposed for conviction of a Class A misdemeanor under this section, if the violation of the protective order results in bodily injury to the petitioner, the court shall order the defendant to be imprisoned for five (5) days. A five (5) day sentence under this subsection may not be suspended. The court may require the defendant to serve the five (5) day term of imprisonment in an appropriate facility at whatever time or intervals, consecutive or intermittent, the court determines to be appropriate. However:

- (1) at least forty-eight (48) hours of the sentence must be served consecutively; and
- (2) the entire five (5) day sentence must be served within six (6) months after the date of sentencing.

(c) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a five (5) day sentence under subsection (b).

SECTION 43. IC 35-46-1-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 20. A law enforcement officer may enforce a foreign protection order (as defined in IC 34-6-2-48.5) in conformity with the procedures in IC 34-26-2.5-10.**

SECTION 44. [EFFECTIVE JULY 1, 2001] **(a) IC 5-2-5 and IC 5-2-9, both as amended by this act, and IC 34-6-2.5, as added by this act, apply to foreign protection orders issued before, on, or after July 1, 2001.**

**(b) IC 33-19-4-1, IC 33-19-5-4, and IC 34-26-2-4, all as amended by this act, apply only to proceedings commenced after the effective date of this SECTION.**

**(c) IC 35-38-1-7.1, as amended by this act, applies to all convictions for a crime entered after the effective date of this SECTION.**

C  
o  
p  
y



1 (d) IC 35-45-10-5 and IC 35-46-1-15.1, both as amended by this  
 2 act, apply only to offenses committed after the effective date of this  
 3 SECTION.

4 SECTION 45. [EFFECTIVE UPON PASSAGE] (a) The division  
 5 of state court administration shall:

6 (1) prescribe or approve by the initial forms required by  
 7 IC 34-26-2.5-12 and IC 34-26-2.5-16, as added by this act;

8 (2) make the forms available to county clerks; and

9 (3) approve or prescribe nonconfidential forms required  
 10 under IC 34-26-2-2(2), as amended by this act;  
 11 before July 1, 2001. The forms described in subdivision (3) must be  
 12 designed with a format that allows for the easy separation of  
 13 confidential information concerning the petitioner from  
 14 information that a respondent needs to prepare a defense to the  
 15 allegations raised by the petition.

16 (b) IC 5-2-9-7, IC 34-26-2-2, IC 34-26-2-6, IC 34-26-2-11, and  
 17 IC 34-26-2-12, all as amended by this act, apply only to petitions  
 18 for issuance of a protective order filed with a court after June 30,  
 19 2001.

20 (c) The legislative council shall appoint an interim study  
 21 commission on criminal law to make a study of the protective  
 22 orders issued for crimes of domestic and family violence.

23 (d) The legislative council is urged to assign the study of  
 24 protective orders issued for crimes of domestic and family violence  
 25 to the interim study commission on criminal law. The study shall  
 26 be completed before the commencement of the 2002 legislative  
 27 session.

28 (e) The interim study commission on criminal law shall operate  
 29 under the direction of the legislative council, and shall issue a final  
 30 report when directed to do so by the council.

31 (f) The affirmative votes of a majority of the members  
 32 appointed to the commission are required for the commission to  
 33 take any official action, including final reports.

34 (g) Notwithstanding IC 5-2-5-12(a)(5), the state police  
 35 department has until January 1, 2002 to modify its computer  
 36 system to allow for the entry of foreign protection orders into the  
 37 Indiana data and communication system (IDACS).

38 (h) This SECTION expires July 1, 2001.

39 SECTION 46. An emergency is declared for this act.

C  
O  
P  
Y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1874, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 18, after "order" insert ", **if reasonably ascertainable from the information received**".

Page 7, line 20, strike "and".

Page 7, between lines 21 and 22, begin a new line double block indented and insert:

**"(E) the name of the petitioner and any other protected parties;**

**(F) the Social Security number, date of birth, and physical description of each person who is the subject of the Indiana protection order, if reasonably ascertainable from the information received;**

**(G) the date the Indiana protection order expires;**

**(H) a caution indicator stating whether a person who is the subject of the Indiana protection order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and**

**(I) if furnished, a Brady record indicator stating whether a person who is the subject of the Indiana protection order is prohibited from purchasing or possessing a firearm under federal law, if reasonably ascertainable from the information received;".**

Page 7, line 33, after "terminated" insert ",".

Page 7, line 33, strike "or expires,".

Page 9, line 24, delete "and".

Page 9, line 26, delete "whether",

Page 9, between lines 29 and 30, begin a new line double block indented and insert:

**"(I) the name and identification number of the officer who serves a foreign protection order, if reasonably ascertainable from the information received; and**

**(J) the manner in which the foreign protection order is served, if reasonably ascertainable from the information received;".**

Page 10, line 3, after "terminated" delete "or expires".

Page 10, line 29, after "person" delete ",".

Page 10, line 29, after "person;" insert ", **except the nonconfidential part of a petition for a protective order that is**

C  
O  
P  
Y



**prescribed or approved by the division of state court administration under IC 34-26-2-2(2);".**

Page 11, delete lines 1 through 19, begin a new paragraph and insert:

"SECTION 12. IC 33-11.6-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) **Subject to subsection (c)**, the costs consist of:

- (1) a township docket fee equal to five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-19-5-2;
- (2) bailiff's service of process by registered or certified mail fee of six dollars (\$6) for each service;
- (3) the cost for the personal service of process by the bailiff or other process server in the amount of eight dollars (\$8) for each service, with the exception that:
  - (A) personal service to execute a warrant for a protective order under IC 34-26-2 (or IC 34-4-5.1 before its repeal) shall cost a fee of twelve dollars (\$12); and
  - (B) writs of restitution and writs of replevin shall cost a fee of twelve dollars (\$12);
- (4) witness fees, if any, in the amount provided by IC 33-19-1-6 to be taxed and charged in the circuit court of the county; and
- (5) a redocketing fee, if any, of five dollars (\$5).

**Subject to subsection (c)**, the docket fee and the cost for the initial service of process shall be paid upon the institution of each case. **Subject to subsection (c)**, the cost of service rendered subsequent to the initial service shall be assessed and paid after such service has been made, and the cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

**(c) The provisions of IC 33-19-4.5 (costs related to domestic violence offenses) apply to a small claims court, bailiff, sheriff, and witnesses to the same extent as if the small claims court were a court listed in IC 33-19-1-1.**

SECTION 13. IC 33-17-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The clerk shall provide each person filing a petition for the issuance of a protective order under IC 34-26-2 without the assistance of an attorney the following information:

- (1) The procedure for obtaining a protective order.

HB 1874—LS 7919/DI 51+



C  
O  
P  
Y

- (2) When a protective order becomes effective.
- (3) Procedures to follow when a protective order is violated.
- (4) Information concerning the waiver of fees under IC 33-19-2-6.**

(b) The information required under subsection (a) must be printed in a manner that can be easily understood by a person who is not an attorney.

(c) The attorney general shall develop an appropriate form to provide the information referred to in subsection (a).

SECTION 14. IC 33-19-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 4.5. Costs Related to Domestic Violence Offenses**

**Sec. 1. This chapter applies to a person who files a motion, petition, or complaint with a court seeking a protective order or an order to enforce a foreign protection order to protect the person from any of the following:**

- (1) Domestic violence.**
- (2) Sexual assault.**
- (3) Stalking.**

**Sec. 2. (a) As used in this chapter, "domestic violence" means conduct against a person who is a family or household member that is prohibited by:**

- (1) a misdemeanor or felony under the laws of the United States, a state, or an Indian tribe that has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or**
- (2) any other misdemeanor or felony under the laws of the United States, a state, or an Indian tribe that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense;**

**regardless of whether the conduct results in criminal prosecution or the person who engages in the conduct is an adult.**

**(b) The term does not include an act of self-defense.**

**Sec. 3. For purposes of this chapter, a person is a family or household member of another person if the person is any of the following:**

- (1) A spouse or former spouse of the other person.**
- (2) A person who has a child in common with the other person.**
- (3) A person who is living or was living with the other person.**



C  
O  
P  
Y



- (4) A person who is dating or was dating the other person.
- (5) A person who is having a sexual relationship or was having a sexual relationship with the other person.
- (6) The natural or adopted child of the other person.
- (7) A person less than eighteen (18) years of age who is related to a person described in subdivisions (1) through (6).

Sec. 4. As used in this chapter, "foreign protection order" has the meaning set forth in IC 34-6-2-48.5.

Sec. 5. As used in this chapter, "Indian tribe" has the meaning set forth in IC 34-6-2-66.7.

Sec. 6. As used in this chapter, "protective order" has the meaning set forth for "protection order" in IC 34-6-2-121.6.

Sec. 7. As used in this chapter, "sexual assault" means conduct that is:

- (1) prohibited by IC 35-42-4 (sex crimes), IC 35-44-7 (sexual misconduct by a service provider with a detainee), or IC 35-46-1-3 (incest);
- (2) prohibited by a misdemeanor or felony under the laws of the United State, a state, or an Indian tribe that is substantially similar to an offense described in subdivision (1); or
- (3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or the person who engages in the conduct is an adult.

Sec. 8. As used in this chapter, "stalking" means conduct that is:

- (1) prohibited by IC 35-45-10-5 (stalking);
- (2) prohibited by a misdemeanor or felony under the laws of the United State, a state, or an Indian tribe that is substantially similar to an offense described in subdivision (1); or
- (3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or the person who engages in the conduct is an adult.

Sec. 9. Notwithstanding any other law, the clerk may not collect a fee or other reimbursement for the filing, issuance, registration, or service of any of the following:

- (1) A warrant related to an action for a protective order or to enforce a foreign protection order.
- (2) A motion, petition, or complaint for a protective order or to enforce a foreign protection order.



C  
o  
p  
y

(3) A protective order or an order enforcing a foreign protection order.

(4) A witness subpoena related to an action for a protective order or to enforce a foreign protection order.

If a person seeks a protective order or an order enforcing a foreign protection order as part of another proceeding, the clerk may not collect a separate fee or reimbursement for the filing, issuance, registration, or service of the papers described in subdivisions (1) through (4).

**Sec. 10.** Prepayment of costs described in section 9 of this chapter are not required if the person, or a person acting on the person's behalf, alleges under oath or affirmation in the motion, petition, or complaint seeking the protective order or order enforcing a foreign protection order that the person is or fears that the person will be a victim of domestic violence, sexual assault, or stalking.

**Sec. 11.** Unless the court finds evidence of fraud, the court shall waive the obligation that the person seeking the protective order or order enforcing a foreign protection order would otherwise have to pay the costs described in section 9 of this chapter if:

(1) the person, or another person acting on the person's behalf, makes the allegations described in section 10 of this chapter; or

(2) the court otherwise determines that the person is a person seeking protection from domestic violence, sexual assault, or stalking.

**Sec. 12.** This section does not prevent the collecting of costs from a party against whom a protective order or order enforcing a foreign protection order is sought."

Page 11, line 32, after "\$100" delete "," and insert ".".

Page 11, line 32, strike "except as provided in subsection".

Page 11, line 32, delete "(b)," and insert "(b)".

Page 11, delete line 33.

Page 11, line 34, strike "(b)".

Page 11, line 34, delete "Subject to IC 34-26-2-4, for" and insert "For".

Page 11, line 34, strike "each proceeding for the issuance".

Page 11, strike lines 35 through 42.

Page 12, strike lines 1 through 7.

Page 12, line 8, strike "(c)" and insert "(b)".

Page 12, delete lines 19 through 35.

Page 13, line 18, after "48.5" delete "and" and insert ",".

C  
O  
P  
Y



Page 13, line 18, after "71.7" insert ", and 121.6".

Page 14, line 12, after "121.6." insert "(a)".

Page 14, line 15, delete "under the domestic violence laws".

Page 14, line 16, after "in" insert ":",

Page 14, line 16, delete "violent or", begin new line block indented and insert:

**"(1) violent or threatening acts against;**

**(2) harassment of;**

**(3) contact or communication with; or**

**(4) physical proximity to;**

**another person, including temporary and final orders issued by civil and criminal courts.**

**(b) The term does not include a support or child custody order issued under the dissolution and child custody laws of a state or Indian tribe, except to the extent that the order is entitled to full faith and credit under a federal law other than 18 U.S.C. 2265.**

**(c) The term applies to an order regardless of whether the order is obtained by filing an independent action or as a pendente lite order in another proceeding if any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection."**

Page 14, delete lines 17 through 18.

Page 17, between lines 12 and 13, begin a new paragraph and insert:

**"SECTION 36. IC 34-26-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A person may petition any court of record or a small claims court established under IC 33-11.6-1-3 for a protective order on behalf of that person or a member of the petitioner's household.**

**SECTION 3. IC 34-26-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The petition:**

**(1) must include the name of the petitioner and the name and address (if known) of the respondent;**

**(2) must include, on a separate or detachable nonconfidential form prescribed or approved by the division of state court administration:**

**(A) any allegation concerning the date or manner of specific acts or feared acts of abuse, harassment, or disruption of the peace of the petitioner or members of the petitioner's household or any allegations concerning specific damage to or the fear of damage to any property of the petitioner; and**

**(B) if the petitioner is requesting that the respondent refrain from entering or damaging real property, an**

C  
O  
P  
Y



**indication of whether the petitioner knows or believes that the petitioner and the respondent are disputing who owns, or has a lease or easement to use, the real property;**

(3) must include a request that, if the court grants the protective order, the court shall order the respondent:

(A) to refrain from abusing, harassing, or disturbing the peace of the petitioner, by either direct or indirect contact;

(B) to refrain from abusing, harassing, or disturbing the peace of a member of the petitioner's household, by either direct or indirect contact;

(C) to refrain from entering the property of the petitioner, jointly owned or leased property of the petitioner and respondent if the respondent is not the sole owner or lessee, or any other property as specifically described in the petition;

(D) to refrain from damaging any property of the petitioner;

(E) if the petitioner and respondent are married and if a proceeding for dissolution of marriage or legal separation is not pending:

(i) to be evicted from the dwelling of the petitioner if the respondent is not the sole owner or lessee of the petitioner's dwelling;

(ii) to not transfer, encumber, damage, conceal, or otherwise dispose of property jointly owned with the petitioner or that is an asset of the marriage;

(iii) to pay child support to the custodian of any minor children of the parties alone or with the other party;

(iv) to pay maintenance to the other party; or

(v) to perform a combination of acts listed in items (i) through (iv);

(4) must be sworn to by the petitioner;

(5) must include a request that the court set a date for a protective order hearing under this chapter;

(6) must be accompanied by a confidential form concerning protective orders prescribed or approved by the division of state court administration; and

(7) may include a request that the court order counseling or other social services, including domestic violence education, for the petitioner, the respondent, or both."

Page 17, line 14, delete "A petitioner is" and insert "**The court:**

**(1) shall order the clerk of the court to waive any filing fees required for a proceeding under this chapter if IC 33-19-4.5 applies; and**

C  
O  
P  
Y



**(2) may order filing fees to be paid by the respondent after a hearing held under this chapter."**

Page 17, delete lines 15 through 27.

Page 17, delete lines 35 through 42.

Page 18, delete lines 1 through 16.

Page 18, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 33. IC 34-26-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. **(a)** The emergency protective order issued under section 5 of this chapter may direct the respondent to refrain from:

- (1) abusing, harassing, or disturbing the peace of the petitioner by either direct or indirect contact;
- (2) abusing, harassing, or disturbing the peace of a member of the petitioner's household, by either direct or indirect contact;
- (3) entering the property of the petitioner or any other property as specifically described in the petition; or
- (4) damaging any property of the petitioner.

**(b) If the court determines on the face of the petition that the petition for a protective order arises out of a dispute over who owns, or has a lease or an easement to use, real property, the court may:**

- (1) issue an emergency protective order under subsection (a) without an order under subsection (a)(3); or**
- (2) deny the emergency protective order, if the likelihood of future abuse or harassment is insubstantial.**

SECTION 34. IC 34-26-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) When a petition is filed, the clerk shall issue a summons to appear at a hearing to the respondent that:

- (1) gives notice of the date, time, and place of the hearing; and
- (2) informs the respondent that the respondent must appear before the court to answer the petition.

(b) The clerk shall serve the respondent with:

- (1) the summons to appear; and**
- (2) a copy of the nonconfidential for submitted as part of the petition under section 2(2) of this chapter;**

in accordance with Rule 4.1 of the Rules of Trial Procedure.

**(c) Before complying with subsection (b)(2), the clerk shall separate the nonconfidential form submitted under section 2(2) of this chapter from the remainder of the petition.**

SECTION 35. IC 34-26-2-12, AS AMENDED BY P.L.14-2000, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C  
o  
p  
y



JULY 1, 2002]: Sec. 12. (a) A court shall set a date for a hearing concerning a petition described in section 2 of this chapter not more than thirty (30) days after the date the petition is filed with the court. At the hearing, if at least one (1) of the allegations described in the petition is proved by a preponderance of the evidence, the court:

(1) shall order the respondent:

(A) to refrain from abusing, harassing, or disturbing the peace of the petitioner, by either direct or indirect contact;

(B) to refrain from abusing, harassing, or disturbing the peace of a member of the petitioner's household, by either direct or indirect contact;

(C) to refrain from entering the property of the petitioner, jointly owned or leased property of the petitioner and the respondent if the respondent is not the sole owner or lessee, or any other property as specifically described in the petition;

(D) to refrain from damaging any property of the petitioner; and

(E) if the petitioner and respondent are married and if a proceeding for dissolution of marriage or legal separation is not pending:

(i) to be evicted from the dwelling of the petitioner if the respondent is not the sole owner or lessee of the petitioner's dwelling;

(ii) to not transfer, encumber, damage, conceal, or otherwise dispose of property jointly owned with the petitioner or that is an asset of the marriage;

(iii) to pay child support to the custodian of any minor children of the parties alone or with the other party;

(iv) to pay maintenance to the other party; or

(v) to perform a combination of the acts described in items (i) through (iv);

(2) may order the respondent to refrain from possessing a firearm (as defined in IC 35-47-1-5) during a period not longer than the period that the respondent is under the protective order if the court finds by clear and convincing evidence that the respondent poses a significant threat of inflicting serious bodily injury to the petitioner or a member of the petitioner's household or family; and

(3) may order counseling or other social services, including domestic violence education, for the petitioner or the respondent, or both, and may order the respondent to pay the costs of obtaining counseling or other social services for the petitioner or the respondent, or both.

C  
O  
P  
Y



If the court prohibits the respondent from possessing a firearm under subdivision (2), the court shall notify the state police department of the restriction. The court may also order the confiscation under IC 35-47-3 of any firearms that the court finds the respondent to possess during the period that the protective order is in effect.

**(b) If the court determines that the petition for a protective order arises out of a dispute over who owns, or has a lease or an easement to use, real property, the court may:**

- (1) issue a protective order under subsection (a) without an order under subsection (a)(1)(C) or (a)(1)(D), or both; or**
- (2) deny the petition for a protective order, if the likelihood of future abuse or harassment against a petitioner is insubstantial.**

SECTION 36. IC 34-26-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If a respondent is ordered to stay away from a petitioner, an invitation by a petitioner to a petitioner's residence or other place where a petitioner is located, does not:**

- (1) allow the respondent to go to the residence or other place where a petitioner is located; or**
- (2) waive or nullify any relief provided by the court in the order of protection."**

Page 19, line 27, delete "No" and insert "**If IC 33-19-4.5 applies to the protected individual, no**".

Page 29, line 25, after "clerks;" insert "**and**

- (3) approve or prescribe nonconfidential forms required under IC 34-26-2-2(2), as amended by this act;"**.

Page 29 line 26, after "2001." insert "**The forms described in subdivision (3) must be designed with a format that allows for the easy separation of confidential information concerning the petitioner from information that a respondent needs to prepare a defense to the allegations raised by the petition."**

Page 29, between lines 26 and 27, and begin a new paragraph and insert:

**"(b) IC 5-2-9-7, IC 34-26-2-2, IC 34-26-2-6, IC 34-26-2-11, and IC 34-26-2-12, all as amended by this act, apply only to petitions for issuance of a protective order filed with a court after June 30, 2001.**

**(c) The legislative council shall appoint an interim study commission on criminal law to make a study of the protective orders issued for crimes of domestic and family violence.**



C  
O  
P  
Y

**(d) The legislative council is urged to assign the study of protective orders issued for crimes of domestic and family violence to the interim study commission on criminal law. The study shall be completed before the commencement of the 2002 legislative session.**

**(e) The interim study commission on criminal law shall operate under the direction of the legislative council, and shall issue a final report when directed to do so by the council.**

**(f) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take any official action, including final reports.**

**(g) Notwithstanding IC 5-2-5-12(a)(5), the state police department has until January 1, 2002 to modify its computer system to allow for the entry of foreign protection orders into the Indiana data and communication system (IDACS)."**

Page 29, line 27, delete "(b)" and insert "(g)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1874 as introduced.)

DVORAK, Chair

Committee Vote: yeas 11, nays 0.

C  
O  
P  
Y





HOUSE MOTION

Mr. Speaker: I move that House Bill 1874 be amended to read as follows:

Page 28, delete line 30.

Page 28, line 31, delete "immune from civil and criminal liability for" and insert "**Sec. 21. The provisions of IC 34-13-3-3 apply to**".

Page 28, line 32, before "arising" insert "**by a governmental entity or an employee**".

Page 28, line 36, delete ";" and insert ".".

Page 28, delete lines 37 through 38.

(Reference is to HB 1874 as printed February 9, 2001.)

ULMER

C  
o  
p  
y

