
HOUSE BILL No. 1874

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2; IC 33-19; IC 34-6-2; IC 34-13-3-3; IC 34-26; IC 35-38-1-7.1; IC 35-45-10-5; IC 35-46-1-15.1; IC 35-46-1-20.

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 foreign protection order in good faith. 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.

Lawson L, Becker

January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.

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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.

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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



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.**

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- 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

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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);

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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

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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

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- 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;
- 19 (C) the name and identification number of the officer who
- 20 serves the **Indiana** order; and
- 21 (D) the manner in which the **Indiana** order is served;
- 22 on the copy of the **Indiana** order or the confidential form; and
- 23 (3) establish a confidential file in which a confidential form that
- 24 contains information concerning a protected person is kept.
- 25 (d) An **Indiana** order may be removed from the depository
- 26 established under this chapter only if the sheriff or law enforcement
- 27 agency that administers the depository receives:
- 28 (1) a notice of termination on a form prescribed or approved by
- 29 the division of state court administration;
- 30 (2) an order of the court; or
- 31 (3) a notice of termination and an order of the court.
- 32 (e) If an **Indiana** order in a depository established under this chapter
- 33 is terminated or expires, the person who obtained the protective order
- 34 must file a notice of termination on a form prescribed or approved by
- 35 the division of state court administration with the clerk of the court.
- 36 The clerk of the court shall provide a copy of the notice of termination
- 37 of an **Indiana** order to each of the depositories to which the **Indiana**
- 38 order and a confidential form were sent. The clerk of the court shall
- 39 maintain the notice of termination in the court's file.
- 40 (f) If an **Indiana** order or form in a depository established under this
- 41 chapter is extended or modified, the person who obtained the extension
- 42 or modification must file a notice of extension or modification on a

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1 form prescribed or approved by the division of state court
 2 administration with the clerk of the court. The clerk of the court shall
 3 provide a copy of the notice of extension or modification **of an Indiana**
 4 **or** order to each of the depositories to which the **Indiana** order and a
 5 confidential form were sent. The clerk of the court shall maintain the
 6 notice of extension or modification **of an Indiana order** in the court's
 7 file.

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

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

14 SECTION 9. IC 5-2-9-6.3 IS ADDED TO THE INDIANA CODE
 15 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 16 1, 2001]: **Sec. 6.3. (a) A county clerk that accepts a foreign**
 17 **protection order for filing under IC 34-26-2.5-12 shall provide a**
 18 **copy of the foreign protection order to the following:**

- 19 (1) **The person filing the foreign protection order.**
- 20 (2) **A law enforcement agency of the municipality in which the**
 21 **person protected by the foreign protection order resides.**
- 22 (3) **If the person protected by the foreign protection order**
 23 **does not reside in a municipality, the sheriff of the county in**
 24 **which the protected person resides.**

25 (b) **A county clerk that accepts a foreign protection order for**
 26 **filing under IC 34-26-2.5-12 shall:**

- 27 (1) **maintain a confidential file to secure any confidential**
 28 **information about a protected person designated on any form**
 29 **prescribed or approved by the division of state court**
 30 **administration; and**
- 31 (2) **provide a copy of the confidential form that accompanies**
 32 **the foreign protection order to the following:**
 - 33 (A) **The sheriff of the county where the county clerk**
 34 **maintains the county clerk's principal office.**
 - 35 (B) **The law enforcement agency of the municipality, if any,**
 36 **in which the protected person resides.**
 - 37 (C) **Any other sheriff or law enforcement agency that the**
 38 **county clerk has reason to believe has jurisdiction over the**
 39 **area in which a protected person may be located or**
 40 **protected.**

41 (c) **A sheriff or law enforcement agency that receives a foreign**
 42 **protection order under subsection (a) and a confidential form**

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- 1 under subsection (b) shall:
- 2 (1) maintain a copy of the foreign protection order in the
- 3 depository established under this chapter;
- 4 (2) enter:
- 5 (A) the name of the petitioner and any other protected
- 6 parties;
- 7 (B) the date and time the sheriff or law enforcement
- 8 agency received the foreign protection order;
- 9 (C) the location of each person who is the subject to the
- 10 foreign protection order, if reasonably ascertainable from
- 11 the information received;
- 12 (D) the date the foreign protection order expires;
- 13 (E) the tribunal and contact information, including the
- 14 name and telephone number of the presiding officer or
- 15 clerk of the issuing tribunal, if reasonably ascertainable
- 16 from the information received;
- 17 (F) the Social Security number, date of birth, and physical
- 18 description of each person who is the subject to the foreign
- 19 protection order, if reasonably ascertainable from the
- 20 information received;
- 21 (G) a caution indicator stating whether a person who is the
- 22 subject of the foreign protection order is believed to be
- 23 armed and dangerous, if reasonably ascertainable from the
- 24 information received; and
- 25 (H) if furnished, a Brady record indicator stating whether
- 26 whether a person who is the subject of the foreign
- 27 protection order is prohibited from purchasing or
- 28 possessing a firearm under federal law, if reasonably
- 29 ascertainable from the information received;
- 30 on the copy of the foreign protection order or the confidential
- 31 form; and
- 32 (3) establish a confidential file in which a confidential form
- 33 that contains information concerning a protected person is
- 34 kept.
- 35 (d) A foreign protection order may be removed from the
- 36 depository established under this chapter only if the sheriff or law
- 37 enforcement agency that administers the depository receives:
- 38 (1) a notice of termination on a form prescribed or approved
- 39 by the division of state court administration;
- 40 (2) an order of the tribunal issuing the foreign protection
- 41 order; or
- 42 (3) a notice of termination and an order of a tribunal issuing

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the protection order.

(e) If a foreign protection order in a depository established under this chapter is terminated or expires, 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 depositories to which the Indiana order and a confidential form were sent. The county clerk shall maintain the notice of extension or modification of a foreign protection order in the court's file.

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

- (1) in a confidential form or any part of a confidential form prescribed or approved by the division of state court administration that must be filed with an **Indiana order or foreign protection order**; or
 - (2) otherwise acquired concerning a protected person;
- is confidential and may not be divulged to any respondent or defendant.

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

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

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

SECTION 11. IC 5-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. A law enforcement agency that

receives a copy of an **Indiana order or foreign protection order** shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 5-2-5-12.

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1 SECTION 12. IC 33-19-1-6 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. **Subject to**
 3 **IC 34-26-2-4 and IC 34-26-2.5-9**, a witness in an action listed in
 4 IC 33-19-5-2 through IC 33-19-5-6 is entitled to a fee:

5 (1) equal to the mileage paid to state officers for each mile
 6 required to travel to and from the court; and

7 (2) five dollars (\$5) for each day of attendance in court.

8 SECTION 13. IC 33-19-4-1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. Prepayment of fees
 10 is not required in proceedings for **any of the following**:

11 (1) Adoption. ~~or~~

12 (2) The appointment of a guardian.

13 **(3) A protective order or emergency protective order under**
 14 **IC 34-26-2, if the petition includes a verified allegation or is**
 15 **accompanied by an affidavit alleging that a protective order**
 16 **is needed to protect the petitioner or a child of the petitioner**
 17 **from domestic violence (as defined in IC 34-6-2-34.5).**

18 **(4) Enforcement of a foreign protection order (as defined in**
 19 **IC 34-6-2-48.5).**

20 SECTION 14. IC 33-19-5-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) For each civil
 22 action except:

23 (1) proceedings to enforce a statute defining an infraction under
 24 IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);

25 (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or
 26 IC 34-4-32-4 before its repeal);

27 (3) proceedings in juvenile court under IC 31-34 or IC 31-37;

28 (4) proceedings in paternity under IC 31-14;

29 (5) proceedings in small claims court under IC 33-11.6; and

30 (6) proceedings in actions under section 6 of this chapter.

31 the clerk shall collect from the party filing the action a civil costs fee
 32 of one hundred dollars (\$100), except as provided in subsection (b),
 33 **IC 34-26-2-4, and IC 34-26-2.5-9.**

34 (b) **Subject to IC 34-26-2-4**, for each proceeding for the issuance
 35 of a protective order under IC 34-26-2:

36 (1) the clerk shall initially collect thirty-five dollars (\$35) of the
 37 civil costs fee from the party that filed the action or the court may
 38 waive the initial thirty-five dollars (\$35) of the civil costs fee for
 39 the party that filed the action; and

40 (2) upon disposition of the protective order petition under
 41 IC 34-26-2, the court may order that:

42 (A) the remainder of the civil costs fee, in the amount of

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1 sixty-five dollars (\$65), be assessed against the respondent in
 2 the action as provided in IC 34-26-2-4 or against the party that
 3 filed the action; and
 4 (B) the initial thirty-five dollar (\$35) civil costs fee be
 5 reimbursed by the respondent in the action to the party that
 6 filed the action or assessed against the respondent in the action
 7 as provided in IC 34-26-2-4.

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

- 11 (1) A document fee.
- 12 (2) A support and maintenance fee.

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

19 SECTION 16. IC 34-6-2-34.5 IS ADDED TO THE INDIANA
 20 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2001]: **Sec. 34.5. "Domestic violence", for the**
 22 **purposes of IC 34-26-2, means physical or sexual abuse,**
 23 **harassment (as defined in IC 35-45-10-2), stalking (as defined in**
 24 **IC 35-45-10-1), or an attempt or a threat of physical or sexual**
 25 **abuse, harassment (as defined in IC 35-45-10-2), or stalking (as**
 26 **defined in IC 35-45-10-1) against another person who:**

- 27 (1) is a spouse or former spouse of the person;
- 28 (2) is or was cohabiting or otherwise living as if a spouse of
 29 the person;
- 30 (3) has a child in common with the person; and
- 31 (4) is a child of a person described in subdivisions (1) through
 32 (3).

33 **The term includes conduct that is an element of an offense under**
 34 **IC 35-42, regardless of whether the conduct results in a criminal**
 35 **prosecution.**

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

- 41 (1) another state; or
- 42 (2) an Indian tribe;

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1 **regardless of whether the protection order was issued in an**
 2 **independent proceeding or as part of another criminal or civil**
 3 **proceeding.**

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

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

- 11 (1) without malice;
 12 (2) after a reasonable effort to obtain the facts of the matter; and
 13 (3) in the reasonable belief that the action taken is warranted by
 14 the facts known.

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

- 20 (1) **tribe;**
 21 (2) **band;**
 22 (3) **pueblo;**
 23 (4) **nation; or**
 24 (5) **group or community that is organized, including an Alaska**
 25 **Native village or regional or village corporation as defined in**
 26 **or established under the Alaska Native Claims Settlement Act**
 27 **(43 U.S.C. 1601 et seq.);**

28 **that is recognized as eligible for the special programs and services**
 29 **provided by the United States to Indians because of their special**
 30 **status as Indians.**

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

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

41 SECTION 23. IC 34-6-2-86.4 IS ADDED TO THE INDIANA
 42 CODE AS A **NEW SECTION** TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2001]: **Sec. 86.4. "Mutual foreign protection**
 2 **order", for purposes of IC 34-26-2.5, means a foreign protection**
 3 **order that includes provisions in favor of both the protected**
 4 **individual seeking enforcement of the order and the respondent.**

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

10 SECTION 25. IC 34-6-2-121.6 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2001]: **Sec. 121.6. "Protection order", for**
 13 **purposes of sections 48.5, 121.4, and 130.7 of this chapter and**
 14 **IC 34-26-2.5, means an injunction or other order, issued by a**
 15 **tribunal under the domestic violence laws of the issuing state or**
 16 **Indian tribe, to prevent an individual from engaging in violent or**
 17 **threatening acts against, harassment of, contact or communication**
 18 **with, or physical proximity to, another individual.**

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

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

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

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

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

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

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

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

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

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

- 12 (1) the natural condition of unimproved property;
- 13 (2) the condition of a reservoir, dam, canal, conduit, drain, or
14 similar structure when used by a person for a purpose that is not
15 foreseeable;
- 16 (3) the temporary condition of a public thoroughfare that results
17 from weather;
- 18 (4) the condition of an unpaved road, trail, or footpath, the
19 purpose of which is to provide access to a recreation or scenic
20 area;
- 21 (5) the initiation of a judicial or an administrative proceeding;
- 22 (6) the performance of a discretionary function; however, the
23 provision of medical or optical care as provided in IC 34-6-2-38
24 shall be considered as a ministerial act;
- 25 (7) the adoption and enforcement of or failure to adopt or enforce
26 a law (including rules and regulations), unless the act of
27 enforcement constitutes false arrest or false imprisonment;
- 28 (8) an act or omission performed in good faith and without malice
29 under the apparent authority of a statute **or court order** which is
30 invalid, **including an arrest or imprisonment related to the**
31 **enforcement of a statute or court order**, if the employee would
32 not have been liable had the statute **or court order** been valid;
- 33 (9) the act or omission of anyone other than the governmental
34 entity or the governmental entity's employee;
- 35 (10) the issuance, denial, suspension, or revocation of, or failure
36 or refusal to issue, deny, suspend, or revoke, any permit, license,
37 certificate, approval, order, or similar authorization, where the
38 authority is discretionary under the law;
- 39 (11) failure to make an inspection, or making an inadequate or
40 negligent inspection, of any property, other than the property of
41 a governmental entity, to determine whether the property
42 complied with or violates any law or contains a hazard to health

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- 1 or safety;
- 2 (12) entry upon any property where the entry is expressly or
- 3 impliedly authorized by law;
- 4 (13) misrepresentation if unintentional;
- 5 (14) theft by another person of money in the employee's official
- 6 custody, unless the loss was sustained because of the employee's
- 7 own negligent or wrongful act or omission;
- 8 (15) injury to the property of a person under the jurisdiction and
- 9 control of the department of correction if the person has not
- 10 exhausted the administrative remedies and procedures provided
- 11 by section 7 of this chapter;
- 12 (16) injury to the person or property of a person under supervision
- 13 of a governmental entity and who is:
- 14 (A) on probation; or
- 15 (B) assigned to an alcohol and drug services program under
- 16 IC 12-23, a minimum security release program under
- 17 IC 11-10-8, or a community corrections program under
- 18 IC 11-12;
- 19 (17) design of a highway (as defined in IC 9-13-2-73) if the
- 20 claimed loss occurs at least twenty (20) years after the public
- 21 highway was designed or substantially redesigned; except that
- 22 this subdivision shall not be construed to relieve a responsible
- 23 governmental entity from the continuing duty to provide and
- 24 maintain public highways in a reasonably safe condition;
- 25 (18) development, adoption, implementation, operation,
- 26 maintenance, or use of an enhanced emergency communication
- 27 system;
- 28 (19) injury to a student or a student's property by an employee of
- 29 a school corporation if the employee is acting reasonably under a
- 30 discipline policy adopted under IC 20-8.1-5.1-7(b); ~~or~~
- 31 (20) an error resulting from or caused by a failure to recognize the
- 32 year 1999, 2000, or a subsequent year, including an incorrect date
- 33 or incorrect mechanical or electronic interpretation of a date, that
- 34 is produced, calculated, or generated by:
- 35 (A) a computer;
- 36 (B) an information system; or
- 37 (C) equipment using microchips;
- 38 that is owned or operated by a governmental entity. However, this
- 39 subdivision does not apply to acts or omissions amounting to
- 40 gross negligence, willful or wanton misconduct, or intentional
- 41 misconduct. For purposes of this subdivision, evidence of gross
- 42 negligence may be established by a party by showing failure of a

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1 governmental entity to undertake an effort to review, analyze,
 2 remediate, and test its electronic information systems or by
 3 showing failure of a governmental entity to abate, upon notice, an
 4 electronic information system error that caused damage or loss;
 5 **or**
 6 **(21) an act or omission performed in good faith and without**
 7 **malice under the apparent authority of a court order**
 8 **described in IC 35-46-1-15.1 that is invalid, including an**
 9 **arrest or imprisonment related to the enforcement of the**
 10 **court order, if the employee would not have been liable had**
 11 **the court order been valid.**

12 However, subdivision (20) expires on June 30, 2003.

13 SECTION 32. IC 34-26-2-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a) A petitioner is**
 15 **not required to prepay:**

16 **(1) the:**

17 **(A) filing fees that the petitioner would otherwise pay**
 18 **under IC 33-19-5-4; or**

19 **(B) township docket fee or fee for personal service to**
 20 **execute a warrant for a protective order that the petitioner**
 21 **would otherwise pay under IC 33-11.6-4-15; and**

22 **(2) witness fees that the petitioner would otherwise pay under**
 23 **IC 33-19-1-6 or IC 33-11.6-4-15;**

24 **for a proceeding under this chapter, if the petition includes a**
 25 **verified allegation or is accompanied by an affidavit alleging that**
 26 **a protective order is needed to protect the petitioner or a child of**
 27 **the petitioner from domestic violence.**

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

29 **(1) order the clerk of the court to waive any filing fees required**
 30 **for a proceeding under this chapter if the petitioner demonstrates**
 31 **by affidavit that the petitioner is unable to pay the fees due to all**
 32 **relevant circumstances; and**

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

35 **(c) The court shall order the clerk of the court to waive:**

36 **(1) the:**

37 **(A) filing fees that the petitioner would otherwise pay**
 38 **under IC 33-19-5-4; or**

39 **(B) township docket fee or fee for personal service to**
 40 **execute a warrant for a protective order that the petitioner**
 41 **would otherwise pay under IC 33-11.6-4-15; and**

42 **(2) witness fees that the petitioner would otherwise pay under**

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1 **IC 33-19-1-6 or IC 33-11.6-4-15;**
 2 **for the proceeding, if the petitioner is not required to prepay fees**
 3 **for a proceeding under this chapter and the court does not make**
 4 **the findings described in subsection (d). If the petitioner's fees are**
 5 **waived under this subsection, the court may order all of the fees in**
 6 **the proceeding to be paid by the respondent after a hearing held**
 7 **under this chapter.**

8 **(d) If the court finds that the:**

9 **(1) petitioner did not prepay filing fees as the result of an**
 10 **allegation described in subsection (a) and IC 33-19-4-1(3);**

11 **(2) petitioner does not qualify as a victim of domestic violence;**
 12 **and**

13 **(3) petitioner's allegation that exempted the person from**
 14 **prepaying fees was made frivolously or in bad faith;**

15 **the court may order the petitioner to pay the filing fee described in**
 16 **subsection (b).**

17 SECTION 33. IC 34-26-2.5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2001]:

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

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

23 **(1) Another state.**

24 **(2) An Indian tribe.**

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

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

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

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

42 **(1) identifies the protected individual and the respondent;**

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

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

15 **Sec. 7. Absence of any of the criteria for validity of a foreign**
 16 **protection order is an affirmative defense in an action seeking**
 17 **enforcement of the order or charging a person with a crime for**
 18 **violation of the foreign protection order.**

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

- 22 (1) the respondent files a written pleading seeking a protection
- 23 order from the tribunal of the issuing state or Indian tribe;
- 24 and
- 25 (2) the tribunal of the issuing state or Indian tribe makes
- 26 specific findings in favor of the respondent.

27 **Sec. 9. No costs or fees may be imposed against a protected**
 28 **individual in a proceeding commenced to enforce a foreign**
 29 **protection order.**

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

- 31 (1) there is probable cause to believe that a valid foreign
- 32 protection order exists; and
- 33 (2) the order has been violated;

34 **shall enforce the order as if it were the order of an Indiana court.**
 35 **Presentation of a foreign protection order that identifies both the**
 36 **protected individual and the respondent and, on its face, is**
 37 **currently in effect constitutes probable cause to believe that a valid**
 38 **foreign protection order exists. For purposes of this section, the**
 39 **protection order may be inscribed on a tangible medium or may**
 40 **have been stored in an electronic or other medium if it is**
 41 **retrievable in perceivable form. Presentation of a certified copy of**
 42 **a protection order is not required for enforcement.**

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

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

- 12 (1) inform the respondent of the order;
- 13 (2) make a reasonable effort to serve the order upon the
 14 respondent; and
- 15 (3) allow the respondent a reasonable opportunity to comply
 16 with the order before enforcing the order.

17 (d) Registration or filing of an order in Indiana or in the
 18 National Crime Information Center (NCIC) protection order file
 19 is not required for the enforcement of a valid foreign protection
 20 order. Commencement of an action under section 3 of this chapter
 21 is not required for the enforcement of a valid foreign protection
 22 order.

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

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

- 30 (1) A copy of a foreign protection order.
- 31 (2) A completed form prescribed or approved by the division
 32 of state court administration for the registration of foreign
 33 protective orders that includes a format for the protected
 34 individual to provide a statement under affirmation that, to
 35 the best of the protected individual's knowledge, the order is
 36 currently in effect.

37 **Registration, including the preparation of necessary copies, shall**
 38 **be without fee or cost.**

39 **Sec. 13.** The county clerk may not notify the party against whom
 40 the order has been made that a foreign protection order has been
 41 registered.

42 **Sec. 14.** If the foreign protection order appears to be valid on its

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1 face, the county clerk shall:

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

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

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

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

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

13 (2) file a copy of the order terminating the foreign protection
14 order, if terminated by an order other than the foreign
15 protection order;

16 with the county clerk in Indiana with whom the foreign protection
17 order was filed.

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

21 (1) a notice of extension or modification on a form prescribed
22 or approved by the division of state court administration; and

23 (2) a copy of the order extending or modifying the foreign
24 protection order;

25 with the county clerk in Indiana with whom the foreign protection
26 order was filed.

27 Sec. 17. A county clerk shall:

28 (1) accept a notice and order filed under section 16 of this
29 chapter from a protected individual without charge; and

30 (2) comply with IC 5-2-9-6.3.

31 Sec. 18. A county clerk shall provide a protected person with
32 forms:

33 (1) prescribed or approved by the division of state court
34 administration; and

35 (2) required under section 12 or 16 of this chapter;

36 without charge.

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

41 Sec. 20. A circuit, superior, or probate court in Indiana may not
42 enforce under this chapter a provision of a foreign protection order

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1 with respect to custody. A provision concerning custody may be
2 enforced under IC 31-17-3.

3 **Sec. 21. A governmental entity and a public employee are**
4 **immune from civil and criminal liability for an act or omission**
5 **arising out of the:**

6 (1) registration or enforcement of a foreign protection order;
7 or

8 (2) detention or arrest of an alleged violator of a foreign
9 protection order;

10 **if the act or omission was done in good faith in an effort to comply**
11 **with this chapter.**

12 **Sec. 22. A protected individual who pursues remedies under this**
13 **chapter may pursue other legal or equitable remedies against the**
14 **respondent.**

15 SECTION 34. IC 35-38-1-7.1, AS AMENDED BY P.L.183-1999,
16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2001]: Sec. 7.1. (a) In determining what sentence to impose
18 for a crime, the court shall consider:

19 (1) the risk that the person will commit another crime;

20 (2) the nature and circumstances of the crime committed;

21 (3) the person's:

22 (A) prior criminal record;

23 (B) character; and

24 (C) condition;

25 (4) whether the victim of the crime was less than twelve (12)
26 years of age or at least sixty-five (65) years of age;

27 (5) whether the person violated a protective order issued against
28 the person under IC 31-15 or IC 31-16 (or IC 31-1-11.5 before its
29 repeal) or IC 34-26-2 (or IC 34-4-5.1 before its repeal); and

30 (6) any oral or written statement made by a victim of the crime.

31 (b) The court may consider the following factors as aggravating
32 circumstances or as favoring imposing consecutive terms of
33 imprisonment:

34 (1) The person has recently violated the conditions of any
35 probation, parole, or pardon granted to the person.

36 (2) The person has a history of criminal or delinquent activity.

37 (3) The person is in need of correctional or rehabilitative
38 treatment that can best be provided by commitment of the person
39 to a penal facility.

40 (4) Imposition of a reduced sentence or suspension of the
41 sentence and imposition of probation would depreciate the
42 seriousness of the crime.

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- 1 (5) The victim of the crime was less than twelve (12) years of age
 2 or at least sixty-five (65) years of age.
 3 (6) The victim of the crime was mentally or physically infirm.
 4 (7) The person committed a forcible felony while wearing a
 5 garment designed to resist the penetration of a bullet.
 6 (8) The person committed a sex crime listed in subsection (e) and:
 7 (A) the crime created an epidemiologically demonstrated risk
 8 of transmission of the human immunodeficiency virus (HIV)
 9 and involved the sex organ of one (1) person and the mouth,
 10 anus, or sex organ of another person;
 11 (B) the person had knowledge that the person was a carrier of
 12 HIV; and
 13 (C) the person had received risk counseling as described in
 14 subsection (g).
 15 (9) The person committed an offense related to controlled
 16 substances listed in subsection (f) if:
 17 (A) the offense involved:
 18 (i) the delivery by any person to another person; or
 19 (ii) the use by any person on another person;
 20 of a contaminated sharp (as defined in IC 16-41-16-2) or other
 21 paraphernalia that creates an epidemiologically demonstrated
 22 risk of transmission of HIV by involving percutaneous contact;
 23 (B) the person had knowledge that the person was a carrier of
 24 the human immunodeficiency virus (HIV); and
 25 (C) the person had received risk counseling as described in
 26 subsection (g).
 27 (10) The person committed the offense in an area of a
 28 consolidated or second class city that is designated as a public
 29 safety improvement area by the Indiana criminal justice institute
 30 under IC 36-8-19.5.
 31 (11) The injury to or death of the victim of the crime was the
 32 result of shaken baby syndrome (as defined in IC 16-41-40-2).
 33 (12) Before the commission of the crime, the person administered
 34 to the victim of the crime, without the victim's knowledge, a
 35 sedating drug or a drug that had a hypnotic effect on the victim,
 36 or the person had knowledge that such a drug had been
 37 administered to the victim without the victim's knowledge.
 38 (13) The person:
 39 (A) committed trafficking with an inmate under IC 35-44-3-9;
 40 and
 41 (B) is an employee of the penal facility.
 42 **(14) The person committed the offense in the presence or**

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1 **within hearing of a person who is less than fifteen (15) years**
 2 **of age who was not the victim of the offense.**

3 (c) The court may consider the following factors as mitigating
 4 circumstances or as favoring suspending the sentence and imposing
 5 probation:

6 (1) The crime neither caused nor threatened serious harm to
 7 persons or property, or the person did not contemplate that it
 8 would do so.

9 (2) The crime was the result of circumstances unlikely to recur.

10 (3) The victim of the crime induced or facilitated the offense.

11 (4) There are substantial grounds tending to excuse or justify the
 12 crime, though failing to establish a defense.

13 (5) The person acted under strong provocation.

14 (6) The person has no history of delinquency or criminal activity,
 15 or the person has led a law-abiding life for a substantial period
 16 before commission of the crime.

17 (7) The person is likely to respond affirmatively to probation or
 18 short term imprisonment.

19 (8) The character and attitudes of the person indicate that the
 20 person is unlikely to commit another crime.

21 (9) The person has made or will make restitution to the victim of
 22 the crime for the injury, damage, or loss sustained.

23 (10) Imprisonment of the person will result in undue hardship to
 24 the person or the dependents of the person.

25 (11) The person was convicted of a crime involving the use of
 26 force against a person who had repeatedly inflicted physical or
 27 sexual abuse upon the convicted person and evidence shows that
 28 the convicted person suffered from the effects of battery as a
 29 result of the past course of conduct of the individual who is the
 30 victim of the crime for which the person was convicted.

31 (d) The criteria listed in subsections (b) and (c) do not limit the
 32 matters that the court may consider in determining the sentence.

33 (e) For the purposes of this article, the following crimes are
 34 considered sex crimes:

35 (1) Rape (IC 35-42-4-1).

36 (2) Criminal deviate conduct (IC 35-42-4-2).

37 (3) Child molesting (IC 35-42-4-3).

38 (4) Child seduction (IC 35-42-4-7).

39 (5) Prostitution (IC 35-45-4-2).

40 (6) Patronizing a prostitute (IC 35-45-4-3).

41 (7) Incest (IC 35-46-1-3).

42 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).

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1 (f) For the purposes of this article, the following crimes are
2 considered offenses related to controlled substances:

- 3 (1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
4 (2) Dealing in a schedule I, II, or III controlled substance
5 (IC 35-48-4-2).
6 (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
7 (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
8 (5) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
9 (6) Possession of a controlled substance (IC 35-48-4-7).
10 (7) Dealing in paraphernalia (IC 35-48-4-8.5).
11 (8) Possession of paraphernalia (IC 35-48-4-8.3).
12 (9) Offenses relating to registration (IC 35-48-4-14).

13 (g) For the purposes of this section, a person received risk
14 counseling if the person had been:

- 15 (1) notified in person or in writing that tests have confirmed the
16 presence of antibodies to the human immunodeficiency virus
17 (HIV) in the person's blood; and
18 (2) warned of the behavior that can transmit HIV.

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

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

- 24 (1) A person:
25 (A) stalks a victim; and
26 (B) makes an explicit or an implicit threat with the intent to
27 place the victim in reasonable fear of:
28 (i) sexual battery (as defined in IC 35-42-4-8);
29 (ii) serious bodily injury; or
30 (iii) death.
31 (2) A protective order or other judicial order under any of the
32 following statutes has been issued by the court to protect the same
33 victim or victims from the person and the person has been given
34 actual notice of the order:
35 (A) IC 31-15, IC 31-16, IC 31-17, or IC 31-1-11.5 before its
36 repeal (dissolution of marriage, legal separation, child support,
37 and child custody).
38 (B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal
39 (delinquent children and children in need of services).
40 (C) IC 31-32 or IC 31-6-7 before its repeal (procedure in
41 juvenile court).
42 (D) IC 34-26-2 or IC 34-4-5.1 before its repeal (protective

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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;**
- (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) 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

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1 finds mitigating circumstances. The court may consider the mitigating
 2 circumstances in IC 35-38-1-7.1(C) in making a determination under
 3 this subsection. However, the criteria listed in IC 35-38-1-7.1(C) do not
 4 limit the matters the court may consider in making its determination.

5 SECTION 36. IC 35-46-1-15.1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15.1. (a) A person who
 7 knowingly or intentionally violates:

8 (1) a protective order issued under:

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

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

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

15 that orders the respondent to refrain from abusing, harassing, or
 16 disturbing the peace of the petitioner;

17 (2) an emergency protective order issued under IC 34-26-2-6(1),
 18 IC 34-26-2-6(2), IC 34-26-2-6(3), (or IC 34-4-5.1-2.3(a)(1)(A),
 19 IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their
 20 repeal) that orders the respondent to refrain from abusing,
 21 harassing, or disturbing the peace of the petitioner;

22 (3) a temporary restraining order issued under IC 31-15-4-3(2),
 23 IC 31-15-4-3(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) (or
 24 IC 31-1-11.5-7(b)(2) or IC 31-1-11.5-7(b)(3) before their repeal)
 25 that orders the respondent to refrain from abusing, harassing, or
 26 disturbing the peace of the petitioner;

27 (4) an order in a dispositional decree issued under IC 31-34-20-1,
 28 IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or
 29 IC 31-6-4-15.9 before their repeal) or an order issued under
 30 IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the
 31 person to refrain from direct or indirect contact with a child in
 32 need of services or a delinquent child;

33 (5) an order issued as a condition of pretrial release, **including**
 34 **release on bail or personal recognizance**, or pretrial diversion
 35 that orders the person to refrain from any direct or indirect contact
 36 with another person;

37 (6) an order issued as a condition of probation that orders the
 38 person to refrain from any direct or indirect contact with another
 39 person;

40 (7) a protective order issued under IC 31-15-5 or IC 31-16-5 (or
 41 IC 31-1-11.5-8.2 before its repeal) that orders the respondent to
 42 refrain from abusing, harassing, or disturbing the peace of the

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- 1 petitioner;
- 2 (8) a protective order issued under IC 31-14-16 in a paternity
- 3 action;
- 4 (9) a protective order issued under IC 31-34-17 in a child in need
- 5 of services proceeding or under IC 31-37-16 in a juvenile
- 6 delinquency proceeding that orders the respondent to refrain from
- 7 having direct or indirect contact with a child; ~~or~~
- 8 (10) an order issued in ~~a another~~ state ~~other than Indiana~~ that is
- 9 substantially similar to an order described in subdivisions (1)
- 10 through (9), **regardless of whether the order was issued in a**
- 11 **criminal or civil proceeding; or**
- 12 **(11) an order that is substantially similar to an order**
- 13 **described in subdivisions (1) through (9) and is issued by an**
- 14 **Indian:**
- 15 (A) tribe;
- 16 (B) band;
- 17 (C) pueblo;
- 18 (D) nation; or
- 19 (E) group or community that is organized, including an
- 20 Alaska Native village or regional or village corporation
- 21 as defined in or established under the Alaska Native
- 22 Claims Settlement Act (43 U.S.C. 1601 et seq.);
- 23 **that is recognized as eligible for the special programs and**
- 24 **services provided by the United States to Indians because of**
- 25 **their special status as Indians, regardless of whether the order**
- 26 **was issued in a criminal or civil proceeding;**
- 27 commits invasion of privacy, a Class B misdemeanor. However, the
- 28 offense is a Class A misdemeanor if the person has a prior unrelated
- 29 conviction for an offense under this section.
- 30 (b) In addition to any other penalty imposed for conviction of a
- 31 Class A misdemeanor under this section, if the violation of the
- 32 protective order results in bodily injury to the petitioner, the court shall
- 33 order the defendant to be imprisoned for five (5) days. A five (5) day
- 34 sentence under this subsection may not be suspended. The court may
- 35 require the defendant to serve the five (5) day term of imprisonment in
- 36 an appropriate facility at whatever time or intervals, consecutive or
- 37 intermittent, the court determines to be appropriate. However:
- 38 (1) at least forty-eight (48) hours of the sentence must be served
- 39 consecutively; and
- 40 (2) the entire five (5) day sentence must be served within six (6)
- 41 months after the date of sentencing.
- 42 (c) Notwithstanding IC 35-50-6, a person does not earn credit time

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1 while serving a five (5) day sentence under subsection (b).
 2 SECTION 37. IC 35-46-1-20 IS ADDED TO THE INDIANA
 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2001]: **Sec. 20. A law enforcement officer**
 5 **may enforce a foreign protection order (as defined in**
 6 **IC 34-6-2-48.5) in conformity with the procedures in**
 7 **IC 34-26-2.5-10.**
 8 SECTION 38. [EFFECTIVE JULY 1, 2001] (a) **IC 5-2-5 and**
 9 **IC 5-2-9, both as amended by this act, and IC 34-6-2.5, as added by**
 10 **this act, apply to foreign protection orders issued before, on, or**
 11 **after July 1, 2001.**
 12 (b) **IC 33-19-4-1, IC 33-19-5-4, and IC 34-26-2-4, all as amended**
 13 **by this act, apply only to proceedings commenced after the**
 14 **effective date of this SECTION.**
 15 (c) **IC 35-38-1-7.1, as amended by this act, applies to all**
 16 **convictions for a crime entered after the effective date of this**
 17 **SECTION.**
 18 (d) **IC 35-45-10-5 and IC 35-46-1-15.1, both as amended by this**
 19 **act, apply only to offenses committed after the effective date of this**
 20 **SECTION.**
 21 SECTION 39. [EFFECTIVE UPON PASSAGE] (a) **The division**
 22 **of state court administration shall:**
 23 (1) **prescribe or approve by the initial forms required by**
 24 **IC 34-26-2.5-12 and IC 34-26-2.5-16, as added by this act;**
 25 (2) **make the forms available to county clerks;**
 26 **before July 1, 2001.**
 27 (b) **This SECTION expires July 1, 2001.**
 28 SECTION 40. **An emergency is declared for this act.**

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