

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7116
BILL NUMBER: SB 434

DATE PREPARED: Jan 8, 2002
BILL AMENDED:

SUBJECT: Restructuring of Protective Orders.

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FUNDS AFFECTED: GENERAL
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill restricts the issuance of protective orders to cases of domestic or family violence. The bill allows a workplace violence restraining order to be issued for the protection of an employee.

The bill provides that a law enforcement officer: (1) shall arrest a person if the officer has probable cause to believe the person has committed invasion of privacy; and (2) responding to the scene of a crime involving domestic or family violence may confiscate firearms, ammunition, and deadly weapons.

The bill allows a person arrested for a crime involving domestic or family violence to be held up to 48 hours before a court holds a hearing on bail. The bill also makes it a Class D felony for a domestic violence offender to knowingly possess a firearm or ammunition. This bill repeals certain provisions concerning protective orders.

Effective Date: July 1, 2002.

Explanation of State Expenditures: This bill makes it a Class D felony for a domestic violence offender to knowingly possess a firearm or ammunition. It also increases the penalty for certain violations from a Class A misdemeanor to a Class D felony. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background: A study conducted by the Indiana Justice Center in 2001 reviewed protective orders in Indiana. Some of the findings are as follows. There are currently over a dozen different types of protective, restraining, or no-contact orders available in the state of Indiana. These orders range from no-contact orders in CHINS, delinquency, and criminal proceedings to protective and restraining orders issued in paternity, dissolution, and separation cases. Indiana's civil protective order statute, IC 34-26-2-1 *et seq.*, does not limit the availability of relief to cases involving domestic or family violence to protective orders; other remedies exist for disputes between neighbors, co-workers, and others. A non-scientific 1999 study of 300 protective order case files in Marion County, Indiana, revealed that roughly half of the cases were *not* domestic in nature.

This bill may impact the total number of restraining orders issued annually. This bill narrows the types of situations in which a restraining/protective order may be issued. This may result in fewer cases involving these types of orders being heard. Staff indicate that this may not reduce the total caseload due to a shift of caseload from restraining/protective orders to other types of cases. This should have minimal fiscal impact.

Explanation of State Revenues: *Penalty Provision:* More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000 while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *Penalty Provision:* If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: *Penalty Provision:* Court fees for both misdemeanors and felonies are \$120.

Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, city and town courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs Association; Protective Order Committee, Judicial Conference of Indiana, Indiana Judicial Center, Indiana Civil Protective Order Act Draft, November 2, 2001.