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# SENATE BILL No. 434

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2; IC 31-9-2; IC 31-14; IC 31-15; IC 31-17-2; IC 31-34; IC 31-37; IC 33-5; IC 33-17-1-11; IC 33-19-4.5; IC 34-6-2; IC 34-26; IC 34-30-2-147.5; IC 35-33; IC 35-38-1-7.1; IC 35-41-1; IC 35-42-2-1.3; IC 35-45-10-5; IC 35-46-1; IC 35-47-4-6.

**Synopsis:** Restructuring of protective orders. Restricts the issuance of protective orders to cases of domestic or family violence. Allows a workplace violence restraining order to be issued for the protection of an employee. 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. 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. Makes it a Class D felony for a domestic violence offender to knowingly possess a firearm or ammunition. Repeals certain provisions concerning protective orders.

**Effective:** July 1, 2002.

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**Clark**

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January 14, 2002, read first time and referred to Committee on Judiciary.

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Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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# SENATE BILL No. 434



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*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.238-2001,  
2 SECTION 1, AS AMENDED BY P.L.272-2001, SECTION 1, AND  
3 AS AMENDED BY P.L.280-2001, SECTION 1, IS AMENDED AND  
4 CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
5 2002]: Sec. 1. The following definitions apply throughout this chapter:  
6 (1) "Limited criminal history" means information with respect to  
7 any arrest ~~indictment, information, or other formal~~ criminal  
8 charge, which must include a disposition. However, information  
9 about any arrest ~~indictment, information, or other formal~~ criminal  
10 charge which occurred less than one (1) year before the date of a  
11 request shall be considered a limited criminal history even if no  
12 disposition has been entered.  
13 (2) "Bias crime" means an offense in which the person who  
14 committed the offense knowingly or intentionally:  
15 (A) selected the person who was injured; or  
16 (B) damaged or otherwise affected property;  
17 by the offense because of the color, creed, disability, national



1 origin, race, religion, or sexual orientation of the injured person  
 2 or of the owner or occupant of the affected property or because  
 3 the injured person or owner or occupant of the affected property  
 4 was associated with any other recognizable group or affiliation.

5 (3) "Care" means the provision of care, treatment, education,  
 6 training, instruction, supervision, or recreation to children less  
 7 than eighteen (18) years of age.

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

10 ~~(4)~~ (5) "Criminal history data" means information collected by  
 11 criminal justice agencies, the United States Department of Justice  
 12 for the department's information system, or individuals. The term  
 13 consists of the following:

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

16 (B) Information regarding ~~an~~ a sex and violent offender (as  
 17 defined in IC 5-2-12-4) obtained through sex and violent  
 18 offender registration under IC 5-2-12.

19 (C) Any disposition, including sentencing, and correctional  
 20 system intake, transfer, and release.

21 (6) "Certificated employee" has the meaning set forth in  
 22 IC 20-7.5-1-2.

23 ~~(5)~~ (7) "Criminal justice agency" means any agency or department  
 24 of any level of government whose principal function is the  
 25 apprehension, prosecution, adjudication, incarceration, probation,  
 26 rehabilitation, or representation of criminal offenders, the location  
 27 of parents with child support obligations under 42 U.S.C. 653, the  
 28 licensing and regulating of riverboat gambling operations, or the  
 29 licensing and regulating of pari-mutuel horse racing operations.  
 30 The term includes the Medicaid fraud control unit for the purpose  
 31 of investigating offenses involving Medicaid. The term includes  
 32 a nongovernmental entity that performs as its principal function  
 33 the:

34 (A) apprehension, prosecution, adjudication, incarceration, or  
 35 rehabilitation of criminal offenders;

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

38 (C) licensing and regulating of riverboat gambling operations;  
 39 or

40 (D) licensing and regulating of pari-mutuel horse racing  
 41 operations;

42 under a contract with an agency or department of any level of

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1 government.

2 ~~(6)~~ (8) "Department" means the state police department.

3 ~~(7)~~ (9) "Disposition" means information disclosing that criminal  
4 proceedings have been concluded or indefinitely postponed.

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

7 ~~(9)~~ *"Indiana order" has the meaning set forth in IC 5-2-9-2.1.*

8 ~~(8)~~ (10) "Inspection" means visual perusal and includes the right  
9 to make memoranda abstracts of the information.

10 ~~(9)~~ (11) "Institute" means the Indiana criminal justice institute  
11 established under IC 5-2-6.

12 ~~(10)~~ (12) "Law enforcement agency" means an agency or a  
13 department of any level of government whose principal function  
14 is the apprehension of criminal offenders.

15 (13) *"National criminal history background check" means the*  
16 *criminal history record system maintained by the Federal Bureau*  
17 *of Investigation based on fingerprint identification or any other*  
18 *method of positive identification.*

19 **(14) "No contact order" means an order that prohibits a**  
20 **person from having direct or indirect contact with another**  
21 **person and that is issued under:**

- 22 (A) IC 31-32-13;
- 23 (B) IC 31-34-17;
- 24 (C) IC 31-34-20;
- 25 (D) IC 31-37-16;
- 26 (E) IC 31-37-19-1;
- 27 (F) IC 31-37-19-6;
- 28 (G) IC 33-14-1-7;
- 29 (H) IC 35-33-8-3.2; or
- 30 (I) IC 35-38-2-2.3.

31 ~~(14)~~ (15) *"Noncertificated employee" has the meaning set forth*  
32 *in IC 20-7.5-1-2.*

33 ~~(11)~~ ~~(15)~~ (16) "Protective order" has the meaning set forth in  
34 IC 5-2-9-2.1. **The term includes a foreign protection order (as**  
35 **defined in IC 34-6-2-48.5).**

36 ~~(16)~~ (17) *"Qualified entity" means a business or an organization,*  
37 *whether public, private, for-profit, nonprofit, or voluntary, that*  
38 *provides care or care placement services, including a business or*  
39 *an organization that licenses or certifies others to provide care*  
40 *or care placement services.*

41 ~~(12)~~ ~~(13)~~ ~~(17)~~ (18) "Release" means the furnishing of a copy or an  
42 edited copy of criminal history data.

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1 ~~(13)~~ ~~(14)~~ ~~(18)~~ **(19)** "Reportable offenses" means all felonies and  
 2 those Class A misdemeanors which the superintendent may  
 3 designate.

4 ~~(14)~~ ~~(15)~~ ~~(19)~~ **(20)** "Request" means the asking for release or  
 5 inspection of a limited criminal history by noncriminal justice  
 6 organizations or individuals in a manner which:

7 (A) reasonably ensures the identification of the subject of the  
 8 inquiry; and

9 (B) contains a statement of the purpose for which the  
 10 information is requested.

11 ~~(20)~~ **(21)** "School corporation" has the meaning set forth in  
 12 IC 20-10.1-1-1.

13 ~~(21)~~ **(22)** "Special education cooperative" has the meaning set  
 14 forth in IC 20-1-6-20.

15 ~~(15)~~ ~~(16)~~ ~~(22)~~ **(23)** "Unidentified person" means a deceased or  
 16 mentally incapacitated person whose identity is unknown.

17 **(24) "Workplace violence restraining order" means an order**  
 18 **issued under IC 34-26-6.**

19 SECTION 2. IC 5-2-5-12, AS AMENDED BY P.L.280-2001,  
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2002]: Sec. 12. (a) On a daily basis, all law enforcement  
 22 agencies shall enter into the Indiana data and communication system  
 23 (IDACS) computer the following:

24 (1) All information concerning stolen or recovered property,  
 25 including:

26 (A) motor vehicles;

27 (B) firearms;

28 (C) securities;

29 (D) boats;

30 (E) license plates; and

31 (F) other stolen or recovered property.

32 (2) All information concerning fugitives charged with a crime,  
 33 including information concerning extradition.

34 (3) All information concerning runaways, missing and  
 35 unidentified persons, and missing children (as defined in  
 36 IC 10-1-7-2), including information concerning the release of  
 37 such persons to the custody of a parent or guardian.

38 (4) Information contained in **an Indiana a protective order**,  
 39 including any modifications or extensions issued by a court and  
 40 filed with a law enforcement agency as required in IC 5-2-9-6(f).

41 ~~(5) Information contained in a foreign protection order, including~~  
 42 ~~any modifications or extensions issued by a tribunal and filed with~~

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1 a law enforcement agency as required in IC 5-2-9-6.3.

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

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

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

10 (3) enter all information concerning unidentified persons into the  
11 National Crime Information Center's Unidentified Person File;  
12 and

13 (4) enter all information concerning a protective order, a  
14 workplace violence restraining order, and a no contact order  
15 involving intimate partners into the National Crime  
16 Information Center's Protection Order File if the order  
17 qualifies under National Crime Information Center rules.

18 (c) If an Indiana a protective order, or a foreign protection no  
19 contact order, or a workplace violence restraining order is removed  
20 from a depository established under IC 5-2-9, the law enforcement  
21 agency responsible for the depository shall delete the information  
22 entered under subsection (a)(4) or (a)(5) from the Indiana data and  
23 communication system (IDACS) computer.

24 SECTION 3. IC 5-2-9-2.1, AS AMENDED BY P.L.1-2001,  
25 SECTION 2, AND AS AMENDED BY P.L.280-2001, SECTION 6, IS  
26 AMENDED AND CORRECTED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2002]: Sec. 2.1. (a) As used in this chapter,  
28 "*Indiana* "protective order" means:

29 (1) a protective order issued under

30 (A) IC 34-26-5 (or, if the order involved a family or  
31 household member, IC 34-26-2-12(1)(A), or  
32 IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C),  
33 IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or  
34 IC 34-4-5.1-5(a)(1)(C) before its their repeal);

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

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

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

41 (2) an emergency ex parte protective order issued under  
42 IC 34-26-5 (or, if the order involved a family or household

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

7 (3) a temporary restraining protective order issued under  
 8 ~~IC 31-15-4-3(2) or IC 31-15-4-3(3) IC 31-16-4-2(a)(2) or~~  
 9 ~~IC 31-16-4-2(a)(3)~~ **IC 31-15-4-1** (or IC 31-1-11.5-7(b)(2), or  
 10 IC 31-1-11.5-7(b)(3), ~~IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3)~~)  
 11 before their repeal); that orders the respondent to refrain from  
 12 abusing, harassing, or disturbing the peace of the petitioner;

13 (4) a dispositional decree **containing a no contact order** issued  
 14 under IC 31-34-20-1, IC 31-37-19-1, or ~~IC 31-37-19-5~~  
 15 **IC 31-37-19-6** (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their  
 16 repeal) or an order **containing a no contact order** issued under  
 17 IC 31-32-13 (or IC 31-6-7-14 before its repeal); that orders a  
 18 person to refrain from direct or indirect contact with a child in  
 19 need of services or a delinquent child;

20 (5) ~~an a no contact~~ order issued as a condition of pretrial release,  
 21 *including release on bail or personal recognizance*, or pretrial  
 22 diversion; that orders a person to refrain from any direct or  
 23 indirect contact with another person;

24 (6) ~~an a no contact~~ order issued as a condition of probation; that  
 25 orders a person to refrain from any direct or indirect contact with  
 26 another person;

27 (7) a protective order issued under ~~IC 31-15-5 or IC 31-16-5~~  
 28 **IC 31-15-5-1** (or IC 31-1-11.5-8.2 ~~or IC 31-16-5~~ before *its their*  
 29 repeal); that orders the respondent to refrain from abusing,  
 30 harassing, or disturbing the peace of the petitioner;

31 (8) a protective order issued under ~~IC 31-14-16~~ **IC 31-14-16-1** in  
 32 a paternity action; that orders the respondent to refrain from  
 33 having direct or indirect contact with another person; *or*

34 (9) a protective **no contact** order issued under ~~IC 31-34-17~~  
 35 **IC 31-34-25** in a child in need of services proceeding or under  
 36 ~~IC 31-37-16~~ **IC 31-37-25** in a juvenile delinquency proceeding;  
 37 that orders the respondent to refrain from having direct or indirect  
 38 contact with a child; *or*

39 (10) *an order issued by a court in Indiana under IC 34-26-2.5-4*  
 40 *to enforce a foreign protection order: a workplace violence*  
 41 **restraining order issued under IC 34-26-6.**

42 (b) Whenever an *Indiana* a protective order, no contact order, or

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1 **workplace violence restraining** order is issued by an **Indiana court**,  
 2 the *Indiana court must caption the order must be captioned* in a  
 3 manner that indicates the type of order issued and the section of the  
 4 Indiana Code that authorizes the protective order, **no contact order, or**  
 5 **workplace violence restraining order. The Indiana court shall also**  
 6 **place on the order the court's hours of operation and telephone**  
 7 **number with area code.**

8 SECTION 4. IC 5-2-9-5, AS AMENDED BY P.L.280-2001,  
 9 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2002]: Sec. 5. A depository is established in the office of each  
 11 sheriff and law enforcement agency in Indiana for the purpose of  
 12 collecting, maintaining, and retaining the following:

- 13 (1) ~~Indiana Protective~~ orders.
- 14 (2) ~~Foreign protection~~ **No contact** orders.
- 15 (3) **Workplace violence restraining orders.**

16 SECTION 5. IC 5-2-9-6, AS AMENDED BY P.L.280-2001,  
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2002]: Sec. 6. (a) The clerk of a court that issues ~~an Indiana~~  
 19 **a protective order, no contact order, or workplace violence**  
 20 **restraining** order shall provide a copy of the ~~Indiana~~ order to the  
 21 following:

- 22 (1) Each party.
- 23 (2) A law enforcement agency of the municipality in which the  
 24 person protected by the ~~Indiana protective order, no contact~~  
 25 **order, or workplace violence restraining** order resides.
- 26 (3) If the person protected by the ~~Indiana protective order, no~~  
 27 **contact order, or workplace violence restraining** order does not  
 28 reside in a municipality, the sheriff of the county in which the  
 29 protected person resides.

30 (b) The clerk of a court that issues ~~an Indiana a protective order,~~  
 31 **no contact order, or workplace violence restraining** order or the  
 32 clerk of a court in which a petition is filed shall:

- 33 (1) maintain a confidential file to secure any confidential  
 34 information about a protected person designated on a uniform  
 35 statewide form prescribed by the division of state court  
 36 administration; and
- 37 (2) provide a copy of the confidential form that accompanies the  
 38 ~~Indiana protective order, no contact order, or workplace~~  
 39 **violence restraining** order to the following:
  - 40 (A) The sheriff of the county in which the ~~Indiana protective~~  
 41 **order, no contact order, or workplace violence restraining**  
 42 order was issued.



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

(C) Any other sheriff or law enforcement agency designated in the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order that has jurisdiction over the area in which a protected person may be located or protected.

(c) A sheriff or law enforcement agency that receives an ~~Indiana~~ **a protective order, no contact order, or workplace violence restraining** order under subsection (a) and a confidential form under subsection (b) shall:

(1) maintain a copy of the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order;

(B) the location of the person who is subject to the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order;

(D) the manner in which the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order is served;

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

(F) the name, Social Security number, date of birth, and physical description of ~~each~~ **the** person who is the subject of the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order, if reasonably ascertainable from the information received;

(G) the date the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** order expires;

(H) a caution indicator stating whether a person who is the subject of the ~~Indiana~~ **protective order, no contact order, or workplace violence restraining** 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

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- 1 person who is the subject of the **Indiana protective order, no**  
 2 **contact order, or workplace violence restraining** order is  
 3 prohibited from purchasing or possessing a firearm **or**  
 4 **ammunition** under federal law, if reasonably ascertainable  
 5 from the information received;  
 6 on the copy of the **Indiana protective order, no contact order,**  
 7 **or workplace violence restraining** order or the confidential  
 8 form; and  
 9 (3) establish a confidential file in which a confidential form that  
 10 contains information concerning a protected person is kept.
- 11 (d) **An Indiana A protective order, no contact order, or**  
 12 **workplace violence restraining** order may be removed from the  
 13 depository established under this chapter only if the sheriff or law  
 14 enforcement agency that administers the depository receives:  
 15 (1) a notice of termination on a form prescribed or approved by  
 16 the division of state court administration;  
 17 (2) an order of the court; or  
 18 (3) a notice of termination and an order of the court.
- 19 (e) If **an Indiana a protective order, no contact order, or**  
 20 **workplace violence restraining** order in a depository established  
 21 under this chapter is terminated, the person who obtained the **protective**  
 22 order must file a notice of termination on a form prescribed or  
 23 approved by the division of state court administration with the clerk of  
 24 the court. The clerk of the court shall provide a copy of the notice of  
 25 termination of **an Indiana a protective order, no contact order, or**  
 26 **workplace violence restraining** order to each of the depositories to  
 27 which the **Indiana protective order, no contact order, or workplace**  
 28 **violence restraining** order and a confidential form were sent. The  
 29 clerk of the court shall maintain the notice of termination in the court's  
 30 file.
- 31 (f) If **an Indiana a protective order, no contact order, or**  
 32 **workplace violence restraining** order or form in a depository  
 33 established under this chapter is extended or modified, the person who  
 34 obtained the extension or modification must file a notice of extension  
 35 or modification on a form prescribed or approved by the division of  
 36 state court administration with the clerk of the court. The clerk of the  
 37 court shall provide a copy of the notice of extension or modification of  
 38 **an Indiana a protective order, no contact order, or workplace**  
 39 **violence restraining** order to each of the depositories to which the  
 40 **Indiana** order and a confidential form were sent. The clerk of the court  
 41 shall maintain the notice of extension or modification of **an Indiana a**  
 42 **protective order, no contact order, or workplace violence**

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**restraining order** in the court's file.  
(g) The clerk of a court that issued an order terminating ~~an Indiana~~ **a protective order, no contact order, or workplace violence restraining order** that is an **emergency protective ex parte** order shall provide a copy of the ~~Indiana~~ order to the following:

- (1) Each party.
- (2) The law enforcement agency provided with a copy of ~~the Indiana~~ **a protective order, no contact order, or workplace violence restraining order** under subsection (a).

SECTION 6. IC 5-2-9-7, AS AMENDED BY P.L.280-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Any information:

- (1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court administration that must be filed with ~~an Indiana order or a foreign protection~~ **a protective order, no contact order, or workplace violence restraining 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 7. IC 5-2-9-8, AS AMENDED BY P.L.280-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. A law enforcement agency that receives a copy of ~~an Indiana order or a foreign protection~~ **a protective order, no contact order, or workplace violence restraining order** shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 5-2-5-12 **upon receiving a copy of the order.**

SECTION 8. IC 31-9-2-29.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29.5. "**Crime involving domestic or family violence**" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.

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- 1           **(3) Kidnapping or confinement under IC 35-42-3.**  
 2           **(4) A sex offense under IC 35-42-4.**  
 3           **(5) Robbery under IC 35-42-5.**  
 4           **(6) Arson or mischief under IC 35-43-1.**  
 5           **(7) Burglary or trespass under IC 35-43-2.**  
 6           **(8) Disorderly conduct under IC 35-45-1.**  
 7           **(9) Intimidation or harassment under IC 35-45-2.**  
 8           **(10) Voyeurism under IC 35-45-4.**  
 9           **(11) Stalking under IC 35-45-10.**  
 10           **(12) An offense against the family under IC 35-46-1-2 through**  
 11           **IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.**

12           SECTION 9. IC 31-9-2-42 IS AMENDED TO READ AS  
 13           FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 42. "Domestic or  
 14           **family violence**" for purposes of IC 31-14-13-2, IC 31-15, IC 31-16,  
 15           and IC 31-17, includes conduct found by a court to be physical or  
 16           sexual abuse against a party or child of a party, including conduct that  
 17           is an element of an offense under IC 35-42, regardless of whether the  
 18           conduct results in a criminal prosecution or occurs in the presence of  
 19           a child of the parties. The term does not include:

- 20           (1) negligence or defamation by one (1) parent against the other  
 21           parent or the child; or  
 22           (2) reasonable acts of self defense used to protect a parent or child  
 23           from the conduct of the other parent.

24           **means, except for an act of self-defense, the occurrence of one (1)**  
 25           **or more of the following acts committed by a family or household**  
 26           **member:**

- 27           **(1) Attempting to cause, threatening to cause, or causing**  
 28           **physical harm to another family or household member.**  
 29           **(2) Placing a family or household member in fear of physical**  
 30           **harm.**  
 31           **(3) Causing a family or household member to involuntarily**  
 32           **engage in sexual activity by force, threat of force, or duress.**

33           SECTION 10. IC 31-9-2-44.5 IS ADDED TO THE INDIANA  
 34           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 35           [EFFECTIVE JULY 1, 2002]: Sec. 44.5. "Family or household  
 36           member" means:

- 37           **(1) a person who is a current or former spouse;**  
 38           **(2) a person who is dating or has dated;**  
 39           **(3) a person who is engaged or was engaged in a sexual**  
 40           **relationship;**  
 41           **(4) a person who is related by blood or adoption;**  
 42           **(5) a person who is related or was related by marriage;**



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- 1           **(6) a person who has an established legal relationship or**
- 2           **previously established a legal relationship:**
- 3               **(A) as a guardian;**
- 4               **(B) as a ward;**
- 5               **(C) as a custodian;**
- 6               **(D) as a foster parent; or**
- 7               **(E) in a capacity similar to those listed in clauses (A)**
- 8               **through (D);**
- 9           **(7) a person who has a child in common; and**
- 10           **(8) a minor child of a person in a relationship described in**
- 11           **subdivisions (1) through (7).**

12           SECTION 11. IC 31-9-2-89 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 89. **(a)** "Person", for  
 14 purposes of the juvenile law, means:

- 15               (1) a human being;
- 16               (2) a corporation;
- 17               (3) a limited liability company;
- 18               (4) a partnership;
- 19               (5) an unincorporated association; or
- 20               (6) a governmental entity.

21           **(b) "Person", for purposes of section 44.5 of this chapter, means**  
 22 **an adult or a minor.**

23           SECTION 12. IC 31-14-13-2, AS AMENDED BY P.L.96-1999,  
 24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2002]: Sec. 2. The court shall determine custody in  
 26 accordance with the best interests of the child. In determining the  
 27 child's best interests, there is not a presumption favoring either parent.  
 28 The court shall consider all relevant factors, including the following:

- 29               (1) The age and sex of the child.
- 30               (2) The wishes of the child's parents.
- 31               (3) The wishes of the child, with more consideration given to the
- 32               child's wishes if the child is at least fourteen (14) years of age.
- 33               (4) The interaction and interrelationship of the child with:
- 34                       (A) the child's parents;
- 35                       (B) the child's siblings; and
- 36                       (C) any other person who may significantly affect the child's
- 37               best interest.
- 38               (5) The child's adjustment to home, school, and community.
- 39               (6) The mental and physical health of all individuals involved.
- 40               (7) Evidence of a pattern of domestic **or family** violence by either
- 41               parent.
- 42               (8) Evidence that the child has been cared for by a de facto

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1           custodian, and if the evidence is sufficient, the court shall  
2           consider the factors described in section 2.5(b) of this chapter.

3           SECTION 13. IC 31-14-14-5, AS ADDED BY P.L.243-1999,  
4           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5           JULY 1, 2002]: Sec. 5. (a) This section applies if a court finds that a  
6           noncustodial parent has been convicted of a ~~domestic battery under~~  
7           ~~IC 35-42-2-1.3~~ **crime involving domestic or family violence** that was  
8           witnessed or heard by the noncustodial parent's child.

9           (b) There is created a rebuttable presumption that the court shall  
10          order that the noncustodial parent's visitation with the child must be  
11          supervised:

12           (1) for at least one (1) year and not more than two (2) years  
13           immediately following the domestic battery conviction; or

14           (2) until the child becomes emancipated;  
15          whichever occurs first.

16          SECTION 14. IC 31-14-16-1 IS AMENDED TO READ AS  
17          FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. A parent may request  
18          a court to issue a protective order against the other parent **to prevent**  
19          **domestic or family violence** at any time after a final decree of  
20          paternity is issued under this article (or IC 31-6-6.1 before its repeal)  
21          if the parties have an unemancipated child. The parent must file ~~an~~  
22          ~~independent written verified motion that establishes the factual basis~~  
23          ~~or relief sought in the protective order:~~ **a petition under IC 34-26-5 in**  
24          **a pending case, and the court may not require the moving party to**  
25          **give security. If the petitioner requests an ex parte protective**  
26          **order, the court shall immediately:**

27           (1) **review the request; and**

28           (2) **if required, set a hearing;**

29          **under IC 34-26-5. The procedure and law for a proceeding under**  
30          **this section are controlled by IC 34-26-5.**

31          SECTION 15. IC 31-15-4-1 IS AMENDED TO READ AS  
32          FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) In an action for  
33          dissolution of marriage under IC 31-15-2 or legal separation under  
34          IC 31-15-3, either party may file a motion for any of the following:

35           (1) Temporary maintenance.

36           (2) Temporary support or custody of a child of the marriage  
37           entitled to support.

38           (3) Possession of property.

39           (4) Counseling.

40           (5) **A protective order under IC 34-26-5.**

41          **(b) If a party desires a protective order under subsection (a)(5),**  
42          **the party must file a petition under IC 34-26-5 in a pending case,**

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1 **and the court may not require the moving party to give security. If**  
 2 **the petitioner requests an ex parte protective order, the court shall**  
 3 **immediately:**

- 4 (1) review the request; and
- 5 (2) if required, set a hearing;

6 **under IC 34-26-5. The procedure and law for a proceeding under**  
 7 **this subsection are controlled by IC 34-26-5.**

8 SECTION 16. IC 31-15-4-2 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. **Except for a**  
 10 **protective order under section 1 of this chapter,** the motion must be  
 11 accompanied by an affidavit setting forth the following:

- 12 (1) The factual basis for the motion.
- 13 (2) The amounts requested or other relief sought.

14 SECTION 17. IC 31-15-4-3 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. As a part of a motion  
 16 for temporary maintenance, for support or custody of a child, or for  
 17 possession of property under section 1 of this chapter or by  
 18 independent motion accompanied by affidavit, either party may request  
 19 the court to issue a temporary restraining order:

- 20 (1) restraining any person from transferring, encumbering,  
 21 concealing, or in any way disposing of any property, except in the  
 22 usual course of business or for the necessities of life; **or**
- 23 ~~(2) enjoining any party from abusing, harassing, or disturbing the~~  
 24 ~~peace of the other party;~~
- 25 ~~(3) excluding either party from:~~  
 26 ~~(A) the family dwelling;~~  
 27 ~~(B) the dwelling of the other; or~~  
 28 ~~(C) any other place;~~  
 29 ~~upon a showing that harm would otherwise result; or~~
- 30 ~~(4) (2) granting temporary possession of property to either party.~~

31 SECTION 18. IC 31-15-4-10 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The court may not  
 33 require joint counseling of the parties under section 9 of this chapter:

- 34 (1) without the consent of both parties; or
- 35 (2) if there is evidence that the other party has demonstrated a  
 36 pattern of domestic **or family** violence against  
 37 ~~(A) the party; or~~  
 38 ~~(B) a child of a party: a family or household member.~~

39 SECTION 19. IC 31-15-5-1 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. ~~(a) A party who~~  
 41 ~~obtains a temporary restraining order under IC 31-15-4-3(2) or~~  
 42 ~~IC 31-15-4-3(3) (or IC 31-1-11.5-7(b)(2) or IC 31-1-11.5-7(b)(3)~~

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1 before the repeal of IC 31-1-11.5-7) in a dissolution of marriage or  
2 legal separation action may request the court to issue a protective order  
3 for the same purposes set forth in the temporary restraining order:

- 4 (1) at the final hearing of the dissolution of marriage or legal  
5 separation action; or
- 6 (2) in the summary dissolution of marriage decree under  
7 IC 31-15-2-13.

8 (b) A party may request the issuance of a protective order under this  
9 section:

- 10 (1) at the final hearing of the dissolution of marriage or legal  
11 separation action;
- 12 (2) in the summary dissolution of marriage decree; or
- 13 (3) not later than sixty (60) days after the issuance of the final  
14 dissolution of marriage decree or legal separation decree.

15 **Either party may request a protective order to prevent domestic or**  
16 **family violence at any time during the dissolution of marriage or**  
17 **legal separation action by filing a petition under IC 34-26-5 with**  
18 **the court in the pending case. The court may not require the**  
19 **moving party to give security. If the petitioner requests an ex parte**  
20 **protective order, the court shall immediately:**

- 21 (1) review the request; and
- 22 (2) if required, set a hearing;

23 **under IC 34-26-5. The procedure and law for a proceeding under**  
24 **this section are controlled by IC 34-26-5.**

25 SECTION 20. IC 31-17-2-8, AS AMENDED BY P.L.96-1999,  
26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2002]: Sec. 8. The court shall determine custody and enter a  
28 custody order in accordance with the best interests of the child. In  
29 determining the best interests of the child, there is no presumption  
30 favoring either parent. The court shall consider all relevant factors,  
31 including the following:

- 32 (1) The age and sex of the child.
- 33 (2) The wishes of the child's parent or parents.
- 34 (3) The wishes of the child, with more consideration given to the  
35 child's wishes if the child is at least fourteen (14) years of age.
- 36 (4) The interaction and interrelationship of the child with:
  - 37 (A) the child's parent or parents;
  - 38 (B) the child's sibling; and
  - 39 (C) any other person who may significantly affect the child's  
40 best interests.
- 41 (5) The child's adjustment to the child's:
  - 42 (A) home;

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- 1 (B) school; and
- 2 (C) community.
- 3 (6) The mental and physical health of all individuals involved.
- 4 (7) Evidence of a pattern of domestic **or family** violence by either
- 5 parent.
- 6 (8) Evidence that the child has been cared for by a de facto
- 7 custodian, and if the evidence is sufficient, the court shall
- 8 consider the factors described in section 8.5(b) of this chapter.

9 SECTION 21. IC 31-17-2-8.3 IS ADDED TO THE INDIANA  
 10 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2002]: **Sec. 8.3. (a) This section applies if a**  
 12 **court finds that a noncustodial parent has been convicted of a**  
 13 **crime involving domestic or family violence that was witnessed or**  
 14 **heard by the noncustodial parent's child.**

15 **(b) There is created a rebuttable presumption that the court**  
 16 **shall order that the noncustodial parent's visitation with the child**  
 17 **must be supervised:**

- 18 **(1) for at least one (1) year and not more than two (2) years**
- 19 **immediately following the domestic battery conviction; or**
- 20 **(2) until the child becomes emancipated;**
- 21 **whichever occurs first.**

22 SECTION 22. IC 31-34-20-2 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. If a court enters a  
 24 dispositional decree **that includes a no contact order** under section  
 25 1(7) of this chapter:

- 26 (1) the clerk of the court that enters a dispositional decree **that**
- 27 **includes a no contact order** under section 1(7) of this chapter
- 28 shall comply with IC 5-2-9; and
- 29 (2) the petitioner shall file a confidential form prescribed or
- 30 approved by the division of state court administration with the
- 31 clerk.

32 SECTION 23. IC 31-34-25 IS ADDED TO THE INDIANA CODE  
 33 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2002]:

35 **Chapter 25. No Contact Orders**

36 **Sec. 1. Any of the following may sign and file a petition for the**  
 37 **juvenile court to require a person to refrain from direct or indirect**  
 38 **contact with a child:**

- 39 **(1) The prosecuting attorney.**
- 40 **(2) The attorney for the county office of family and children.**
- 41 **(3) A probation officer.**
- 42 **(4) A caseworker.**

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(5) The department of correction.

(6) The guardian ad litem or court appointed special advocate.

Sec. 2. A petition filed under section 1 of this chapter must be verified.

Sec. 3. A petition seeking to restrain a person from contact must be entitled "In the Matter of a No Contact Order for \_\_\_\_\_". The petition must allege the following:

(1) That the respondent is likely to have direct or indirect contact with the child in the absence of an order under this chapter.

(2) That the child has been adjudicated a child in need of services.

(3) That the best interests of the child will be served if the person refrains from direct or indirect contact with the child.

Sec. 4. (a) The court may hold a hearing on a petition concurrently with a dispositional hearing or with a hearing to modify a dispositional decree.

(b) If the court finds that the allegations under section 3 of this chapter are true, the court shall enter a decree.

Sec. 5. If a court enters a decree that requires a person to refrain from direct or indirect contact with a child, the clerk of the court shall comply with IC 5-2-9.

SECTION 24. IC 31-37-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. If a court enters a dispositional decree **that includes a no contact order** under section 1(7) of this chapter:

(1) the clerk of the court that enters a dispositional decree **that includes a no contact order** under section 1(7) of this chapter shall comply with IC 5-2-9; and

(2) the petitioner shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 25. IC 31-37-19-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. If a court issues a dispositional decree **that includes a no contact order** under section 6(b)(2)(G) of this chapter:

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the petitioner shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 26. IC 31-37-25 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2002]:

3 **Chapter 25. No Contact Orders**

4 **Sec. 1. Any of the following may sign and file a petition for the**  
5 **juvenile court to require a person to refrain from direct or indirect**  
6 **contact with a child:**

- 7 (1) **The prosecuting attorney.**
- 8 (2) **The attorney for the county office of family and children.**
- 9 (3) **A probation officer.**
- 10 (4) **A caseworker.**
- 11 (5) **The department of correction.**
- 12 (6) **The guardian ad litem or court appointed special**  
13 **advocate.**

14 **Sec. 2. A petition filed under section 1 of this chapter must be**  
15 **verified.**

16 **Sec. 3. A petition seeking to restrain a person from contact must**  
17 **be entitled "In the Matter of a No Contact Order for**  
18 **\_\_\_\_\_". The petition must allege the following:**

- 19 (1) **That the respondent is likely to have direct or indirect**  
20 **contact with the child in the absence of an order under this**  
21 **chapter.**
- 22 (2) **That the child has been adjudicated a delinquent child.**
- 23 (3) **That the best interests of the child will be served if the**  
24 **person refrains from direct or indirect contact with the child.**

25 **Sec. 4. (a) The court may hold a hearing on a petition**  
26 **concurrently with a dispositional hearing or with a hearing to**  
27 **modify a dispositional decree.**

28 **(b) If the court finds that the allegations under section 3 of this**  
29 **chapter are true, the court shall enter a decree.**

30 **Sec. 5. If a court enters a decree that requires a person to**  
31 **refrain from direct or indirect contact with a child, the clerk of the**  
32 **court shall comply with IC 5-2-9.**

33 SECTION 27. IC 33-5-5.1-8, AS AMENDED BY P.L.196-1999,  
34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2002]: Sec. 8. (a) The court may appoint such number of  
36 probate commissioners, juvenile referees, bailiffs, court reporters,  
37 probation officers, and such other personnel, including but not limited  
38 to an administrative officer, as shall in the opinion of the court be  
39 necessary to facilitate and transact the business of the court. In addition  
40 to the personnel authorized under this subsection and IC 31-31-3, the  
41 judges of the Allen superior court-civil division may jointly appoint not  
42 more than four (4) full-time magistrates under IC 33-4-7 to serve the

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1 Allen superior court-civil division. The judges of the Allen superior  
2 court-civil division may jointly assign any such magistrates the duties  
3 and powers of a probate commissioner. In addition to the personnel  
4 authorized under this subsection and IC 31-31-3, the judge of the Allen  
5 superior court-criminal division may jointly appoint not more than  
6 three (3) full-time magistrates under IC 33-4-7 to serve the Allen  
7 superior court-criminal division. Any such magistrate serves at the  
8 pleasure of, and continues in office until jointly removed by, the judges  
9 of the division that appointed the magistrate. All appointments made  
10 under this subsection shall be made without regard to the political  
11 affiliation of the appointees. The salaries of the above personnel shall  
12 be fixed and paid as provided by law. If the salaries of any of the above  
13 personnel are not provided by law, the amount and time of payment of  
14 such salaries shall be fixed by the court, to be paid out of the county  
15 treasury by the county auditor, upon the order of the court, and be  
16 entered of record. The officers and persons so appointed shall perform  
17 such duties as are prescribed by the court. Any such administrative  
18 officer appointed by the court shall operate under the jurisdiction of the  
19 chief judge and shall serve at the pleasure of the chief judge. Any such  
20 probate commissioners, magistrates, juvenile referees, bailiffs, court  
21 reporters, probation officers, and other personnel appointed by the  
22 court shall serve at the pleasure of the court.

23 (b) Any probate commissioner so appointed by the court may be  
24 vested by said court with all suitable powers for the handling and  
25 management of the probate and guardianship matters of the court,  
26 including the fixing of all bonds, the auditing of accounts of estates and  
27 guardianships and trusts, acceptance of reports, accounts, and  
28 settlements filed in said court, the appointment of personal  
29 representatives, guardians, and trustees, the probating of wills, the  
30 taking and hearing of evidence on or concerning such matters, or any  
31 other probate, guardianship, or trust matters in litigation before such  
32 court, the enforcement of court rules and regulations, the making of  
33 reports to the court concerning his doings in the above premises,  
34 including the taking and hearing of evidence together with such  
35 commissioner's findings and conclusions regarding the same, all of  
36 such matters, nevertheless, to be under the final jurisdiction and  
37 decision of the judges of said court.

38 (c) Any juvenile referee so appointed by the court may be vested by  
39 said court with all suitable powers for the handling and management of  
40 the juvenile matters of the court, including the fixing of bonds, the  
41 taking and hearing of evidence on or concerning any juvenile matters  
42 in litigation before the court, the enforcement of court rules and

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1 regulations, the making of reports to the court concerning his doings in  
 2 the above premises, all of such matters, nevertheless, to be under final  
 3 jurisdiction and decision of the judges of said court.

4 (d) For any and all of the foregoing purposes, any probate  
 5 commissioner and juvenile referee shall have the power to summon  
 6 witnesses to testify before the said commissioner and juvenile referee,  
 7 to administer oaths and take acknowledgments in connection with and  
 8 in furtherance of said duties and powers.

9 (e) The powers of a magistrate appointed under this section include  
 10 the powers provided in IC 33-4-7 and the power to enter a final order  
 11 or judgment in any proceeding involving matters specified in  
 12 IC 33-5-2-4 (jurisdiction of small claims docket) or ~~IC 34-26-2~~  
 13 **IC 34-26-5 (protective orders to prevent abuse): domestic or family**  
 14 **violence).**

15 SECTION 28. IC 33-5-40-73, AS ADDED BY P.L.196-1999,  
 16 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2002]: Sec. 73. (a) After August 31, 1999, the court may  
 18 appoint two (2) full-time magistrates under IC 33-4-7 to serve the court  
 19 using the selection method provided by IC 36-1-8-10(b)(1) or  
 20 IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed  
 21 under this section may be a member of the same political party.

22 (b) A magistrate continues in office until removed by the judges of  
 23 the court.

24 (c) The powers of a magistrate appointed under this section include  
 25 the powers provided in IC 33-4-7 and the power to enter a final order  
 26 or judgment in any proceeding involving matters specified in  
 27 IC 33-5-2-4 (jurisdiction of small claims docket) or ~~IC 34-26-2~~  
 28 **IC 34-26-5 (protective orders to prevent abuse): domestic or family**  
 29 **violence).**

30 SECTION 29. IC 34-6-2-34.5 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2002]: **Sec. 34.5. "Domestic or family**  
 33 **violence" means, except for an act of self-defense, the occurrence**  
 34 **of at least one (1) of the following acts committed by a family or**  
 35 **household member:**

36 (1) Attempting to cause, threatening to cause, or causing  
 37 physical harm to another family or household member.

38 (2) Placing a family or household member in fear of physical  
 39 harm.

40 (3) Causing a family or household member to involuntarily  
 41 engage in sexual activity by force, threat of force, or duress.

42 SECTION 30. IC 34-6-2-44.8 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2002]: **Sec. 44.8. "Family or household**  
 3 **member" means:**

- 4 (1) a person who is a current or former spouse;  
 5 (2) a person who is dating or has dated;  
 6 (3) a person who is engaged or was engaged in a sexual  
 7 relationship;  
 8 (4) a person who is related by blood or adoption;  
 9 (5) a person who is related or was related by marriage;  
 10 (6) a person who has an established legal relationship or  
 11 previously established a legal relationship:  
 12 (A) as a guardian;  
 13 (B) as a ward;  
 14 (C) as a custodian;  
 15 (D) as a foster parent; or  
 16 (E) in a capacity similar to those listed in clauses (A)  
 17 through (D);  
 18 (7) a person who has a child in common; and  
 19 (8) a minor child of a person in a relationship described in  
 20 subdivisions (1) through (7).

21 SECTION 31. IC 34-6-2-48.5, AS ADDED BY P.L.280-2001,  
 22 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2002]: Sec. 48.5. "Foreign protection order", for purposes of  
 24 ~~IC 34-26-2.5~~, **IC 34-26-5-17**, means a protection order issued by a  
 25 tribunal of:

- 26 (1) another state; or  
 27 (2) an Indian tribe;

28 regardless of whether the protection order was issued in an independent  
 29 proceeding or as part of another criminal or civil proceeding.

30 SECTION 32. IC 34-6-2-49, AS AMENDED BY P.L.250-2001,  
 31 SECTION 4, AND AS AMENDED BY P.L.280-2001, SECTION 29,  
 32 IS AMENDED AND CORRECTED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2002]: Sec. 49. "Governmental entity", for  
 34 purposes of *section 91 of this chapter*, IC 34-13-2, IC 34-13-3, and  
 35 IC 34-13-4, ~~and IC 34-26-2.5~~, means the state or a political subdivision  
 36 of the state.

37 SECTION 33. IC 34-6-2-66.7, AS ADDED BY P.L.280-2001,  
 38 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 2002]: Sec. 66.7. "Indian tribe", for purposes of sections 48.5,  
 40 71.7, and 121.6 of this chapter and ~~IC 34-26-2.5~~ **IC 34-26-5-17**, means  
 41 an Indian:

- 42 (1) tribe;



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- 1 (2) band;
- 2 (3) pueblo;
- 3 (4) nation; or
- 4 (5) organized group or community, including an Alaska Native
- 5 village or regional or village corporation as defined in or
- 6 established under the Alaska Native Claims Settlement Act (43
- 7 U.S.C. 1601 et seq.);

8 that is recognized as eligible for the special programs and services  
 9 provided by the United States to Indians because of their special status  
 10 as Indians.

11 SECTION 34. IC 34-6-2-71.7, AS ADDED BY P.L.280-2001,  
 12 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2002]: Sec. 71.7. "Issuing state or Indian tribe", for purposes  
 14 of ~~IC 34-26-2-5~~, **IC 34-26-5-17**, means the state or Indian tribe whose  
 15 tribunal issues a protection order.

16 SECTION 35. IC 34-6-2-73.3, AS ADDED BY P.L.280-2001,  
 17 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2002]: Sec. 73.3. "Law enforcement officer", for purposes of  
 19 ~~IC 34-26-2-5~~, **IC 34-26-5**, has the meaning set forth in IC 35-41-1-17.

20 SECTION 36. IC 34-6-2-103, AS AMENDED BY P.L.95-2001,  
 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2002]: Sec. 103. (a) "Person", for purposes of IC 34-14, has  
 23 the meaning set forth in IC 34-14-1-13.

24 (b) "Person", for purposes of IC 34-19-2, has the meaning set forth  
 25 in IC 35-41-1.

- 26 (c) "Person", for purposes of IC 34-24-4, means:
- 27 (1) an individual;
  - 28 (2) a governmental entity;
  - 29 (3) a corporation;
  - 30 (4) a firm;
  - 31 (5) a trust;
  - 32 (6) a partnership; or
  - 33 (7) an incorporated or unincorporated association that exists  
 34 under or is authorized by the laws of this state, another state, or a  
 35 foreign country.

36 (d) "Person", for purposes of ~~IC 34-26-2~~, **includes individuals at**  
 37 **least eighteen (18) years of age and emancipated minors. section 44.8**  
 38 **of this chapter, means an adult or a minor.**

39 (e) "Person", for purposes of IC 34-26-4, has the meaning set forth  
 40 in IC 35-41-1-22.

41 (f) "Person", for purposes of IC 34-30-5, means any of the  
 42 following:

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- 1 (1) An individual.  
 2 (2) A corporation.  
 3 (3) A partnership.  
 4 (4) An unincorporated association.  
 5 (5) The state (as defined in IC 34-6-2-140).  
 6 (6) A political subdivision (as defined in IC 34-6-2-110).  
 7 (7) Any other entity recognized by law.
- 8 (g) "Person", for purposes of IC 34-30-6, means an individual, a  
 9 corporation, a limited liability company, a partnership, an  
 10 unincorporated association, or a governmental entity that:  
 11 (1) has qualifications or experience in:  
 12 (A) storing, transporting, or handling a hazardous substance or  
 13 compressed gas;  
 14 (B) fighting fires;  
 15 (C) emergency rescue; or  
 16 (D) first aid care; or  
 17 (2) is otherwise qualified to provide assistance appropriate to  
 18 remedy or contribute to the remedy of the emergency.
- 19 (h) "Person", for purposes of IC 34-30-18, includes:  
 20 (1) an individual;  
 21 (2) an incorporated or unincorporated organization or association;  
 22 (3) the state of Indiana;  
 23 (4) a political subdivision (as defined in IC 36-1-2-13);  
 24 (5) an agency of the state or a political subdivision; or  
 25 (6) a group of such persons acting in concert.
- 26 (i) "Person", for purposes of sections 42, 43, 69, and 95 of this  
 27 chapter, means an individual, an incorporated or unincorporated  
 28 organization or association, or a group of such persons acting in  
 29 concert.
- 30 (j) "Person" for purposes of IC 34-30-10.5, means the following:  
 31 (1) A political subdivision (as defined in IC 36-1-2-13).  
 32 (2) A volunteer fire department (as defined in IC 36-8-12-2).  
 33 (3) An employee of an entity described in subdivision (1) or (2)  
 34 who acts within the scope of the employee's responsibilities.  
 35 (4) A volunteer firefighter (as defined in IC 36-8-12-2) who is  
 36 acting for a volunteer fire department.
- 37 SECTION 37. IC 34-6-2-121.4, AS ADDED BY P.L.280-2001,  
 38 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 2002]: Sec. 121.4. "~~Protected individual~~", for purposes of  
 40 ~~section 86.4 of this chapter and IC 34-26-2.5~~, means an individual  
 41 ~~protected by a protection order.~~ **person" means a petitioner or a**  
 42 **family or household member of the petitioner who is protected by**

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1 **the terms of a civil protective order issued under IC 34-26-5.**  
2 SECTION 38. IC 34-6-2-121.6, AS ADDED BY P.L.280-2001,  
3 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2002]: Sec. 121.6. (a) "Protection order" or "**order for**  
5 **protection**", for purposes of sections 48.5, 121.4, and 130.7 of this  
6 chapter and ~~IC 34-26-2.5~~; **IC 34-26-5**, means an injunction or other  
7 order issued by a tribunal of the issuing state or Indian tribe to prevent  
8 an individual from:  
9 (1) engaging in violent or threatening acts against;  
10 (2) engaging in harassment of;  
11 (3) engaging in contact or communication with; or  
12 (4) being in physical proximity to;  
13 another person, including temporary and final orders issued by civil  
14 and criminal courts.  
15 (b) The term does not include a support or child custody order  
16 issued under the dissolution and child custody laws of a state or Indian  
17 tribe, except to the extent that the order qualifies as a ~~protective~~  
18 **protection** order under subsection (a) and is entitled to full faith and  
19 credit under a federal law other than 18 U.S.C. 2265.  
20 (c) The term applies to an order regardless of whether the order is  
21 obtained by filing an independent action or as a pendente lite order in  
22 another proceeding if any civil order was issued in response to a  
23 complaint, petition, or motion filed by or on behalf of a person seeking  
24 protection.  
25 SECTION 39. IC 34-6-2-123, AS AMENDED BY P.L.280-2001,  
26 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2002]: Sec. 123. "Public employee", for purposes of  
28 IC 34-13-2, IC 34-13-3, and IC 34-13-4, and ~~IC 34-26-2.5~~, has the  
29 meaning set forth in section 38 of this chapter.  
30 SECTION 40. IC 34-6-2-130.7, AS ADDED BY P.L.280-2001,  
31 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2002]: Sec. 130.7. "Respondent", for purposes of section 86.4  
33 of this chapter and ~~IC 34-26-2.5~~; **IC 34-26-5**, means the individual  
34 against whom the enforcement of a protection order is sought.  
35 SECTION 41. IC 34-6-2-138, AS AMENDED BY P.L.280-2001,  
36 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2002]: Sec. 138. "Sheriff",  
38 (1) for purposes of ~~IC 34-26-2.5~~; refers to the county sheriff; and  
39 (2) for purposes of IC 34-47-4, means the sheriff of the county in  
40 which a court issues a writ of attachment under IC 34-47-4 (or  
41 IC 34-4-9 before its repeal).  
42 SECTION 42. IC 34-6-2-140, AS AMENDED BY P.L.280-2001,

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1 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2002]: Sec. 140. "State":

3 (1) for purposes of IC 34-13-3, means Indiana and its state  
4 agencies; and

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

7 SECTION 43. IC 34-6-2-144.2, AS ADDED BY P.L.280-2001,  
8 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2002]: Sec. 144.2. "Tribunal", for purposes of sections 48.5  
10 and 121.6 of this chapter and ~~IC 34-26-2.5~~, **IC 34-26-5**, means a court,  
11 **an** agency, or ~~other~~ **another** entity authorized by law to issue or modify  
12 a protection order.

13 SECTION 44. IC 34-26-5 IS ADDED TO THE INDIANA CODE  
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2002]:

16 **Chapter 5. Indiana Civil Protection Order Act**

17 **Sec. 1. This chapter shall be construed to promote the:**

18 (1) **protection and safety of all victims of domestic or family**  
19 **violence in a fair, prompt, and effective manner; and**

20 (2) **prevention of future domestic and family violence.**

21 **Sec. 2. (a) A person who is or has been a victim of domestic or**  
22 **family violence may file a petition for an order for protection**  
23 **against a family or household member who commits an act of**  
24 **domestic or family violence.**

25 **(b) A parent, a guardian, or another representative may file a**  
26 **petition for an order for protection on behalf of a child against a**  
27 **family or household member who commits an act of domestic or**  
28 **family violence.**

29 **(c) A court may issue only one (1) order for each respondent. If**  
30 **a petitioner files a petition against more than one (1) respondent,**  
31 **the court shall:**

32 (1) **assign a new case number; and**

33 (2) **maintain a separate court file;**

34 **for each respondent.**

35 **(d) If a petitioner seeks relief against an unemancipated minor,**  
36 **the case may originate in any court of record and, if it is an**  
37 **emergency matter, be processed the same as an ex parte petition.**  
38 **When a hearing is set, the matter may be transferred to a court**  
39 **with juvenile jurisdiction.**

40 **Sec. 3. (a) The division of state court administration shall:**

41 (1) **develop and adopt:**

42 (A) **a petition for an order for protection;**

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- 1                   **(B) an order for protection, including:**  
 2                    (i) orders issued under this chapter;  
 3                    (ii) ex parte orders; and  
 4                    (iii) no contact orders under IC 31 and IC 35;  
 5                   **(C) a confidential sheet;**  
 6                   **(D) a notice of modification or extension for an order for**  
 7                   **protection;**  
 8                   **(E) a notice of termination for an order for protection; and**  
 9                   **(F) any other uniform statewide forms necessary to**  
 10                   **maintain an accurate registry of orders; and**  
 11                   **(2) provide the forms under subdivision (1) to the clerk of**  
 12                   **each court authorized to issue the orders.**  
 13                   **(b) In addition to any other required information, a petition for**  
 14                   **an order for protection must contain a statement listing each civil**  
 15                   **or criminal action involving:**  
 16                    (1) either party; or  
 17                    (2) a child of either party.  
 18                   **(c) The following statements must be printed in boldface type or**  
 19                   **in capital letters on an order for protection:**  
 20                    **VIOLATION OF THIS ORDER IS PUNISHABLE BY**  
 21                    **CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.**  
 22                    **IF SO ORDERED BY THE COURT, THE RESPONDENT IS**  
 23                    **FORBIDDEN TO ENTER OR STAY AT THE**  
 24                    **PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO**  
 25                    **SO BY THE PETITIONER OR ANY OTHER PERSON. IN**  
 26                    **NO EVENT IS THE ORDER FOR PROTECTION VOIDED.**  
 27                    **PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR**  
 28                    **PROTECTION SHALL BE GIVEN FULL FAITH AND**  
 29                    **CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND**  
 30                    **SHALL BE ENFORCED AS IF IT WERE AN ORDER**  
 31                    **ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT**  
 32                    **TO 18 U.S.C. 922(g), IT IS A FEDERAL VIOLATION TO**  
 33                    **PURCHASE, RECEIVE, OR POSSESS A FIREARM**  
 34                    **WHILE SUBJECT TO THIS ORDER.**  
 35                   **(d) The clerk of the circuit court, or a person or entity**  
 36                   **designated by the clerk of the circuit court, shall provide to a**  
 37                   **person requesting an order for protection:**  
 38                    (1) the forms adopted under subsection (a);  
 39                    (2) all other forms required to petition for an order for  
 40                    **protection, including forms:**  
 41                      (A) necessary for service; and  
 42                      (B) required under IC 31-17-3; and

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1 (3) clerical assistance in completing the forms and filing the  
2 petition, including information about the:

- 3 (A) procedure for obtaining an order for protection;  
4 (B) effective date of an order for protection; and  
5 (C) procedure to follow if an order for protection is  
6 violated.

7 Clerical assistance provided by the clerk or court personnel under  
8 this chapter does not constitute the practice of law. The clerk of the  
9 circuit court may enter into a contract with a person or another  
10 entity to provide this assistance.

11 (e) A petition for an order for protection must be:

- 12 (1) verified or under oath under Trial Rule 11; and  
13 (2) issued on the forms adopted under subsection (a).

14 (f) If an order for protection is issued under this chapter, the  
15 clerk shall comply with IC 5-2-9.

16 Sec. 4. (a) Any court of record has jurisdiction to issue a civil  
17 order for protection.

18 (b) A petition for an order for protection must be filed in the  
19 county in which the:

- 20 (1) petitioner currently or temporarily resides;  
21 (2) respondent resides; or  
22 (3) domestic or family violence occurred.

23 (c) There is no minimum residency requirement to petition for  
24 an order for protection.

25 Sec. 5. At a hearing to obtain an order for protection, each party  
26 has a continuing duty to inform the court of:

- 27 (1) each separate proceeding for an order for protection;  
28 (2) any civil litigation;  
29 (3) each proceeding in a family, domestic relations, or juvenile  
30 court; and  
31 (4) each criminal case;

32 involving a party or a child of a party. The information provided  
33 under this section must include the case name, the case number,  
34 and the county and state in which the proceeding is held, if that  
35 information is known by the party.

36 Sec. 6. The following rules apply to an order for protection  
37 issued under this chapter:

- 38 (1) An order for protection is in addition to, and not instead  
39 of, another available civil or criminal proceeding.  
40 (2) A petitioner is not barred from seeking an order because  
41 of another pending proceeding.  
42 (3) A court may not delay granting relief because of the

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1 existence of a pending action between the petitioner and  
2 respondent.

3 (4) If a person who petitions for an ex parte order for  
4 protection also has a pending case involving:

5 (A) the respondent; or

6 (B) a child of the petitioner and respondent;

7 the court that has been petitioned for relief shall immediately  
8 consider the ex parte petition and then transfer that matter to  
9 the court in which the other case is pending.

10 Sec. 7. A petitioner may omit the petitioner's address from all  
11 nonconfidential documents filed with a court. However, a  
12 petitioner must provide the court with complete information  
13 concerning the protected address on the uniform statewide  
14 confidential sheet and on other confidential forms developed by the  
15 division of state court administration under section 3 of this  
16 chapter. A petitioner shall also provide the clerk with a public  
17 mailing address for purposes of serving pleadings, notices, and  
18 court orders. The petitioner may use the address confidentiality  
19 program under IC 5-26.5. If disclosure of a petitioner's address is  
20 necessary to determine jurisdiction or to consider venue, the court  
21 may order the disclosure to be made:

22 (1) after receiving a petitioner's consent;

23 (2) orally in the judge's chambers and out of the presence of  
24 a respondent with a sealed record made; or

25 (3) after a hearing in which the court considers the safety of  
26 a petitioner and finds that disclosure of the address is in the  
27 interest of justice.

28 Sec. 8. If a petitioner seeks:

29 (1) an order for protection;

30 (2) an extension of an order for protection;

31 (3) a modification of an order for protection; or

32 (4) the termination of an order for protection;

33 the petitioner is responsible for completing the forms prescribed by  
34 the division of state court administration and for transmitting  
35 those forms to the clerk of the court.

36 Sec. 9. (a) If it appears from a petition for an order for  
37 protection or from a petition to modify an order for protection that  
38 domestic or family violence has occurred or that a modification of  
39 an order for protection is required, a court may:

40 (1) without notice or hearing, immediately issue an order for  
41 protection ex parte or modify an order for protection ex  
42 parte; or

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- 1           (2) upon notice and after a hearing, whether or not a
- 2           respondent appears, issue or modify an order for protection.
- 3           **(b) A court may grant the following relief without notice and**
- 4           **hearing in an ex parte order for protection or in an ex parte order**
- 5           **for protection modification:**
- 6           **(1) Enjoin a respondent from threatening to commit or**
- 7           **committing acts of domestic or family violence against a**
- 8           **petitioner and each designated family or household member.**
- 9           **(2) Prohibit a respondent from harassing, annoying,**
- 10           **telephoning, contacting, or directly or indirectly**
- 11           **communicating with a petitioner.**
- 12           **(3) Remove and exclude a respondent from the residence of a**
- 13           **petitioner, regardless of ownership of the residence.**
- 14           **(4) Order a respondent to stay away from the residence,**
- 15           **school, or place of employment of a petitioner or a specified**
- 16           **place frequented by a petitioner and each designated family**
- 17           **or household member.**
- 18           **(5) Order possession and use of the residence, an automobile,**
- 19           **and other essential personal effects, regardless of the**
- 20           **ownership of the residence, automobile, and essential personal**
- 21           **effects. If possession is ordered under this subdivision, the**
- 22           **court may direct a law enforcement officer to accompany a**
- 23           **petitioner to the residence of the parties to:**
- 24           **(A) ensure that a petitioner is safely restored to possession**
- 25           **of the residence, automobile, and other essential personal**
- 26           **effects; or**
- 27           **(B) supervise a petitioner's or respondent's removal of**
- 28           **personal belongings.**
- 29           **(6) Grant temporary custody of minor children to a**
- 30           **petitioner.**
- 31           **(7) Order other relief necessary to provide for the safety and**
- 32           **welfare of a petitioner and each designated family or**
- 33           **household member.**
- 34           **(c) A court may grant the following relief after notice and a**
- 35           **hearing, whether or not a respondent appears, in an order for**
- 36           **protection or in a modification of an order for protection:**
- 37           **(1) Grant the relief under subsection (b).**
- 38           **(2) Specify arrangements for visitation of a minor child by a**
- 39           **respondent and:**
- 40           **(A) require supervision by a third party; or**
- 41           **(B) deny visitation;**
- 42           **if necessary to protect the safety of a petitioner or child.**

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- 1           **(3) Order a respondent to:**  
 2           **(A) pay attorney's fees;**  
 3           **(B) pay rent or make payment on a mortgage on a**  
 4           **petitioner's residence;**  
 5           **(C) if the respondent is found to have a duty of support,**  
 6           **pay for the support of a petitioner and each minor child;**  
 7           **(D) reimburse a petitioner or other person for expenses**  
 8           **related to the domestic or family violence, including:**  
 9               **(i) medical expenses;**  
 10               **(ii) counseling;**  
 11               **(iii) shelter; and**  
 12               **(iv) repair or replacement of damaged property; or**  
 13           **(E) pay the costs and fees incurred by a petitioner in**  
 14           **bringing the action.**
- 15           **(4) Prohibit a respondent from using or possessing a firearm,**  
 16           **ammunition, or a deadly weapon specified by the court, and**  
 17           **direct the respondent to surrender to a specified law**  
 18           **enforcement agency the firearm, ammunition, or deadly**  
 19           **weapon for the duration of the order for protection. The court**  
 20           **may subsequently issue a search warrant authorizing a law**  
 21           **enforcement officer to seize firearms, ammunition, or deadly**  
 22           **weapons specified in the order for protection if the court**  
 23           **finds:**
- 24               **(A) that there is probable cause to believe that firearms,**  
 25               **ammunition, or deadly weapons are kept on the premises**  
 26               **or curtilage of the premises; and**  
 27               **(B) that an affiant in an affidavit for probable cause**  
 28               **supporting the request for the search warrant has reason**  
 29               **to believe that all firearms, ammunition, and deadly**  
 30               **weapons have not been surrendered by a respondent.**
- 31           **(d) The court shall:**
- 32               **(1) cause the order for protection to be delivered to the county**  
 33               **sheriff for service;**  
 34               **(2) make reasonable efforts to ensure that the order for**  
 35               **protection is understood by a petitioner and a respondent if**  
 36               **present;**  
 37               **(3) transmit, by the end of the same business day on which the**  
 38               **order for protection is issued, a copy of the order for**  
 39               **protection to each local law enforcement agency designated by**  
 40               **a petitioner;**  
 41               **(4) transmit a copy of the order to the clerk for processing**  
 42               **under IC 5-2-9; and**

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1           **(5) notify the state police department of the order if the order**  
2           **and the parties meet the criteria under 18 U.S.C. 922(g)(8).**  
3           **(e) An order for protection issued ex parte or upon notice and**  
4           **a hearing, or a modification of an order for protection issued ex**  
5           **parte or upon notice and a hearing, is effective for two (2) years**  
6           **after the date of issuance unless another date is ordered by the**  
7           **court. The sheriff of each county shall provide expedited service for**  
8           **an order for protection.**  
9           **(f) A finding that domestic or family violence has occurred**  
10           **sufficient to justify the issuance of an order under this section**  
11           **means that a respondent represents a credible threat to the safety**  
12           **of a petitioner or a member of a petitioner's household. Upon a**  
13           **showing of domestic or family violence by a preponderance of the**  
14           **evidence, the court shall grant relief necessary to bring about a**  
15           **cessation of the violence or the threat of violence. The relief may**  
16           **include an order directing a respondent to surrender to a law**  
17           **enforcement officer or agency all firearms, ammunition, and**  
18           **deadly weapons:**  
19               **(1) in the control, ownership, or possession of a respondent;**  
20               **or**  
21               **(2) in the control or possession of another person on behalf of**  
22               **a respondent;**  
23           **for the duration of the order for protection.**  
24           **(g) An order for custody, visitation, or possession or control of**  
25           **property issued under this chapter is superseded by an order**  
26           **issued from a court exercising dissolution, legal separation,**  
27           **paternity, or guardianship jurisdiction over the parties.**  
28           **(h) The fact that an order for protection is issued under this**  
29           **chapter does not raise an inference or presumption in a subsequent**  
30           **case or hearings between the parties.**  
31           **Sec. 10. (a) Except as provided in subsection (b), if a court**  
32           **issues:**  
33               **(1) an order for protection ex parte; or**  
34               **(2) a modification of an order for protection ex parte;**  
35           **and provides relief under section 9(b) of this chapter, upon a**  
36           **request by either party not more than thirty (30) days after service**  
37           **of the order or modification, the court shall set a date for a hearing**  
38           **on the petition. The hearing must be held not more than thirty (30)**  
39           **days after the request for a hearing is filed unless continued by the**  
40           **court for good cause shown. The court shall notify both parties by**  
41           **first class mail of the date and time of the hearing.**  
42           **(b) A court shall set a date for a hearing on the petition not**

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1 more than thirty (30) days after the filing of the petition if a court  
 2 issues an order for protection ex parte or a modification of an  
 3 order of protection ex parte and:

- 4 (1) a petitioner requests or the court provides relief under  
 5 section 9(b)(3), 9(b)(5), 9(b)(6), or 9(b)(7) of this chapter; or  
 6 (2) a petitioner requests relief under section 9(c)(2), 9(c)(3), or  
 7 9(c)(4) of this chapter.

8 The hearing must be given precedence over all matters pending in  
 9 the court except older matters of the same character.

10 (c) In a hearing under subsection (a) or (b):

- 11 (1) relief under section 9 of this chapter is available; and  
 12 (2) if a respondent seeks relief concerning an issue not raised  
 13 by a petitioner, the court may continue the hearing at the  
 14 petitioner's request.

15 Sec. 11. If a respondent is excluded from the residence of a  
 16 petitioner or ordered to stay away from a petitioner, an invitation  
 17 by the petitioner to do so does not waive or nullify an order for  
 18 protection.

19 Sec. 12. If a petitioner:

- 20 (1) files a written request for dismissal with a court; or  
 21 (2) makes an oral request on the record to dismiss the case in  
 22 open court;

23 the court shall without delay or any conditions dismiss the case  
 24 without prejudice.

25 Sec. 13. A court may not deny a petitioner relief under section  
 26 9 of this chapter solely because of a lapse of time between an act of  
 27 domestic or family violence and the filing of a petition.

28 Sec. 14. (a) A court may not grant a mutual order for protection  
 29 to opposing parties.

30 (b) If both parties allege injury, the parties shall do so by  
 31 separate petitions. The trial court shall review each petition  
 32 separately in an individual or a consolidated hearing and grant or  
 33 deny each petition on the petition's individual merits. If the trial  
 34 court finds cause to grant both petitions, the court shall do so by  
 35 separate orders with specific findings justifying the issuance of  
 36 each order.

37 Sec. 15. A court may not:

- 38 (1) order parties into mediation; or  
 39 (2) refer parties to mediation;

40 for resolution of the issues in a petition for an order for protection  
 41 regarding family or domestic violence. This section may not be  
 42 construed to preclude mediation in other cases involving the same

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1 parties.

2 **Sec. 16. Fees for:**

- 3 (1) filing;  
 4 (2) service of process;  
 5 (3) witnesses; or  
 6 (4) subpoenas;

7 may not be charged for a proceeding seeking relief or enforcement  
 8 as provided in this chapter. This section may not be construed to  
 9 prevent the collecting of costs from a party against whom an order  
 10 for protection is sought if the court finds a claim to be meritorious  
 11 and issues an order for protection under this chapter.

12 **Sec. 17. (a) A foreign protection order is facially valid if it:**

- 13 (1) identifies the protected person and the respondent;  
 14 (2) is currently in effect;  
 15 (3) was issued by a state or tribal court with jurisdiction over  
 16 the:

- 17 (A) parties; and  
 18 (B) subject matter;

19 under the law of the issuing state or Indian tribe; and  
 20 (4) was issued after a respondent was given reasonable notice  
 21 and an opportunity to be heard sufficient to protect the  
 22 respondent's right to due process. In the case of an ex parte  
 23 order, notice and opportunity to be heard must be provided  
 24 within the time required by state or tribal law and within a  
 25 reasonable time after the order is issued sufficient to protect  
 26 the respondent's due process rights.

27 (b) A facially valid foreign protection order is prima facie  
 28 evidence of its validity. The protection order may be inscribed on  
 29 a tangible medium or stored in an electronic or other medium if it  
 30 is retrievable in perceivable form. Presentation of a certified copy  
 31 of an order for protection is not required for enforcement.

32 (c) Except as provided in subsection (d), a protection order that  
 33 is facially valid and issued by a court of a state (issuing state) or  
 34 Indian tribe shall be accorded full faith and credit by Indiana  
 35 courts.

36 (d) A mutual foreign protection order is not entitled to full faith  
 37 and credit if the order is issued by a state or tribal court against a  
 38 person who has petitioned, filed a complaint, or otherwise filed a  
 39 written pleading for protection against a family or household  
 40 member, unless:

- 41 (1) a separate petition or motion was filed by a respondent;  
 42 (2) the issuing court has reviewed each motion separately and

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1 granted or denied each on its individual merits; and

2 (3) separate orders were issued and the issuing court made  
3 specific findings that each party was entitled to an order.

4 (e) Registration or filing of a foreign protection order is not a  
5 prerequisite to enforcement of the order in Indiana, and a  
6 protection order that is consistent with this section shall be  
7 accorded full faith and credit notwithstanding a failure to register  
8 or file the order in Indiana. However, if a petitioner wishes to  
9 register a foreign protection order in Indiana, all Indiana courts of  
10 record shall accommodate the request. The division of state court  
11 administration shall develop a form to be used by courts, clerks,  
12 and law enforcement agencies when a petitioner makes a request  
13 to register a foreign protection order. The courts, clerks of the  
14 courts, and sheriffs or law enforcement agencies maintaining  
15 depositories shall employ the same procedures required under  
16 IC 5-2-9-6 for entering, modifying, extending, or terminating a  
17 foreign protection order as those used for a protection order and  
18 a no contact order originating in Indiana.

19 (f) A facially valid foreign protection order shall be enforced by  
20 a law enforcement officer and a state court as if it were an order  
21 originating in Indiana. The order must be enforced if the foreign  
22 protection order contains relief that the state courts lack the power  
23 to provide in an order for protection issued in Indiana.

24 (g) An Indiana law enforcement officer:

25 (1) may not require notification, registration, or filing of a  
26 facially valid foreign order for protection as a prerequisite to  
27 enforcement of an order;

28 (2) if a foreign protection order is not presented, may consider  
29 other information to determine under a totality of the  
30 circumstances whether there is probable cause to believe that  
31 a valid foreign order for protection exists; and

32 (3) who determines that an otherwise valid foreign protection  
33 order cannot be enforced because a respondent has not been  
34 notified or served with the order, shall:

35 (A) inform the respondent of the order;

36 (B) serve the order on the respondent;

37 (C) ensure that the order and service of the order are  
38 entered into the state depository;

39 (D) allow the respondent a reasonable opportunity to  
40 comply with the order before enforcing the order; and

41 (E) ensure the safety of the protected person while giving  
42 the respondent the opportunity to comply with the order.

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1           **Sec. 18. The following orders are required to be entered into the**  
2 **Indiana data and communication system (IDACS) by a county**  
3 **sheriff or local law enforcement agency:**

- 4           **(1) A no contact order issued under IC 31-32-13 in a juvenile**  
5 **case.**
- 6           **(2) A no contact order issued under IC 31-34-20 in a child in**  
7 **need of services (CHINS) case.**
- 8           **(3) A no contact order issued under IC 31-34-25 in a CHINS**  
9 **case.**
- 10           **(4) A no contact order issued under IC 31-37-19 in a**  
11 **delinquency case.**
- 12           **(5) A no contact order issued under IC 31-37-25 in a**  
13 **delinquency case.**
- 14           **(6) A no contact order issued under IC 33-14-1-7 in a criminal**  
15 **case.**
- 16           **(7) An order for protection issued under this chapter.**
- 17           **(8) A workplace violence restraining order issued under**  
18 **IC 34-26-6.**
- 19           **(9) A no contact order issued under IC 35-33-8-3.2 in a**  
20 **criminal case.**
- 21           **(10) A no contact order issued under IC 35-38-2-2.3 in a**  
22 **criminal case.**

23           **Sec. 19. In a proceeding under this chapter, a court may appoint**  
24 **a guardian ad litem to represent the interests of a child of one (1)**  
25 **or both parents.**

26           **Sec. 20. (a) Not more than thirty (30) days before the expiration**  
27 **of an order for protection, a respondent may request by written**  
28 **motion to the court the return of ammunition and each firearm**  
29 **and deadly weapon held by a law enforcement agency while the**  
30 **order for protection was in effect. Upon receipt of a motion, the**  
31 **court shall schedule a hearing not later than thirty (30) days after**  
32 **the expiration of the order. The court shall provide written notice**  
33 **to a petitioner, who has the right to appear and be heard, and to**  
34 **the law enforcement agency that has control over the property in**  
35 **question. The scope of the hearing is limited to determining if the**  
36 **respondent is subject to a state law, federal law, or court order that**  
37 **precludes the respondent from owning or possessing a firearm,**  
38 **ammunition, or a deadly weapon. The court may require a record**  
39 **check of the respondent. The burden of proof by clear and**  
40 **convincing evidence rests on the respondent.**

41           **(b) If the court:**

- 42           **(1) finds that the respondent is not subject to a state law,**

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federal law, or court order precluding the ownership or possession of a firearm, ammunition, or a deadly weapon; and (2) denies the petitioner's request to extend the order for protection;

the court shall issue a written order directing the law enforcement agency to return the requested property to the respondent.

(c) A law enforcement agency may not release a firearm, ammunition, or a deadly weapon without a court order granting the release. A law enforcement agency may charge the respondent a reasonable fee for the storage of property taken or surrendered under an order for protection. The fee may not exceed the actual cost incurred by the law enforcement agency for the storage of the property.

(d) A law enforcement agency that exercises due care may not be held liable for alleged damage or deterioration due to storage or transportation of a firearm, ammunition, or a deadly weapon.

(e) A person's failure to file a timely request before the expiration of an order for protection for the return of surrendered property will result in forfeiture of the property.

SECTION 45. IC 34-26-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

**Chapter 6. Workplace Violence Restraining Orders**

**Sec. 1. As used in this chapter, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, indicating a continuity of purpose, that includes the following:**

- (1) Following or stalking an employee to or from the employee's place of work.
- (2) Entering the employee's place of work.
- (3) Following an employee during the employee's hours of employment.
- (4) Making telephone calls to an employee during the employee's hours of employment.
- (5) Sending correspondence to an employee by means such as public or private mail, interoffice mail, fax, or electronic mail.

**Sec. 2. As used in this chapter, "credible threat of violence" means a knowing and willful statement or course of conduct that does not serve a legitimate purpose and that causes a reasonable person to fear for the person's safety or for the safety of the person's immediate family.**

**Sec. 3. As used in this chapter, "employee" means:**

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- 1 (1) an employee (as defined in IC 22-2-2-3);
- 2 (2) a member of a board of directors for a private, public, or
- 3 quasi-public corporation;
- 4 (3) an elected or appointed public officer; and
- 5 (4) a volunteer or an independent contractor who performs
- 6 services for an employer at the employer's place of work.

7 **Sec. 4. As used in this chapter, "employer" means:**

- 8 (1) a person defined as an employer under IC 22-2-2-3;
- 9 (2) a federal agency;
- 10 (3) the state;
- 11 (4) a state agency;
- 12 (5) a city;
- 13 (6) a county;
- 14 (7) a private, public, or quasi-public corporation or a public
- 15 agency; and
- 16 (8) a public agency operating wholly within or as part of a
- 17 public or quasi-public corporation.

18 **Sec. 5. As used in this chapter, "unlawful violence", except for**  
19 **lawful acts of self-defense or defense of others, means battery**  
20 **under IC 35-42-2 or stalking under IC 35-45-10.**

21 **Sec. 6. An employer may seek a temporary restraining order or**  
22 **injunction on behalf of an employee to prohibit further violence or**  
23 **threats of violence by a person if:**

- 24 (1) the employee has suffered unlawful violence or a credible
- 25 threat of violence from the person; and
- 26 (2) the unlawful violence has been carried out at the
- 27 employee's place of work or the credible threat of violence can
- 28 reasonably be construed to be carried out at the employee's
- 29 place of work by the person.

30 **Sec. 7. A plaintiff may obtain a temporary restraining order**  
31 **under section 6 of this chapter by filing a petition for an injunction**  
32 **if the plaintiff:**

- 33 (1) files an affidavit that shows, to the satisfaction of the court,
- 34 reasonable proof that an employee has suffered unlawful
- 35 violence or a credible threat of violence by the defendant; and
- 36 (2) demonstrates that great or irreparable harm has been
- 37 suffered by the employee or will be suffered by the employee.

38 **Sec. 8. A court shall hold a hearing not more than fifteen (15)**  
39 **days after a petition for an injunction is filed under section 7 of this**  
40 **chapter. The defendant may file a cross-complaint or a responsive**  
41 **pleading that explains, excuses, justifies, or denies the alleged**  
42 **unlawful violence or credible threat of violence. The court shall:**

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- 1 (1) receive testimony and may make independent inquiry; and
- 2 (2) if the defendant is a current employee of the entity
- 3 requesting the injunction, receive testimony of the employer's
- 4 decision to retain, terminate, or otherwise discipline the
- 5 defendant.

6 If the judge finds by clear and convincing evidence that the  
 7 defendant engaged in unlawful violence or made a credible threat  
 8 of violence, the judge shall issue an injunction prohibiting further  
 9 unlawful violence or credible threats of violence.

10 Sec. 9. An injunction issued under section 8 of this chapter may  
 11 remain in effect for not more than three (3) years. Not more than  
 12 three (3) months before the expiration of an injunction, a plaintiff  
 13 may apply for a renewal of the injunction by filing a new petition  
 14 under section 8 of this chapter.

15 Sec. 10. A defendant shall be personally served with a copy of  
 16 the petition, temporary restraining order, if any, and a notice of  
 17 the hearing not less than five (5) days before the hearing. However,  
 18 the court may, for good cause, upon the filing of a motion by a  
 19 plaintiff or upon the court's own motion, shorten the time for  
 20 service on the defendant.

21 Sec. 11. The court shall order a plaintiff or the attorney for a  
 22 plaintiff to deliver a copy of each:

- 23 (1) temporary restraining order;
- 24 (2) injunction;
- 25 (3) modification of a temporary restraining order or an
- 26 injunction; and
- 27 (4) termination of a temporary restraining order or an
- 28 injunction;

29 to a law enforcement agency that is requested by a plaintiff and  
 30 approved by the court. The copies under subdivisions (1) through  
 31 (4) must be delivered by the close of the business day on which the  
 32 order is granted. Each law enforcement agency shall make  
 33 information on the existence and status of an order available to a  
 34 law enforcement officer responding to the scene of unlawful  
 35 violence or a credible threat of violence.

36 Sec. 12. An intentional violation of a temporary restraining  
 37 order or an injunction issued under this chapter is punishable as  
 38 set forth under IC 35-46-1-15.1.

39 Sec. 13. (a) The division of state court administration shall  
 40 develop forms, instructions, and rules for the scheduling of  
 41 hearings and other procedures under this chapter. A party to an  
 42 action under this chapter must use the forms developed by the

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division of state court administration.

(b) A temporary restraining order or an injunction issued for harassment or domestic or family violence under this chapter must be issued on forms adopted and approved by the division of state court administration and must be consistent with IC 34-26-5-3. However, an order or injunction issued under this section is not rendered unenforceable solely because it is not issued on forms adopted and approved by the division of state court administration.

(c) Information in a temporary restraining order or an injunction relating to harassment or domestic or family violence must be transmitted to the Indiana data and communication system (IDACS) as required under IC 34-26-5-18.

Sec. 14. A filing fee may not be charged for a petition that alleges that a person has:

- (1) inflicted or threatened violence against an employee of the petitioner;
- (2) stalked an employee of the petitioner; or
- (3) spoken in a manner that has placed an employee in reasonable fear of violence;

and that seeks a temporary restraining order or an injunction to restrain future violence or threats of violence. A filing fee may not be charged for a responsive pleading described under section 8 of this chapter.

Sec. 15. This chapter may not be construed to:

- (1) permit a court to issue a temporary restraining order or an injunction that prohibits speech or any other activity that is constitutionally protected or otherwise protected by another law;
- (2) prevent either party from representation by private counsel or from pro se representation; or
- (3) expand, diminish, alter, or modify the duty, if any, of an employer to provide a safe workplace for an employee or another person.

SECTION 46. IC 34-30-2-147.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 147.5. IC 35-33-1-1.5 (Concerning a civil action against a law enforcement officer or a law enforcement officer's employer for damage or deterioration of a firearm, ammunition, or a deadly weapon, or for emergency care provided to an alleged victim of domestic or family violence).**

SECTION 47. IC 35-33-1-1, AS AMENDED BY P.L.222-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2002]: Sec. 1. (a) A law enforcement officer may arrest a  
2 person when the officer has:

- 3 (1) a warrant commanding that the person be arrested;  
4 (2) probable cause to believe the person has committed or  
5 attempted to commit, or is committing or attempting to commit,  
6 a felony;  
7 (3) probable cause to believe the person has violated the  
8 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),  
9 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;  
10 (4) probable cause to believe the person is committing or  
11 attempting to commit a misdemeanor in the officer's presence;  
12 (5) probable cause to believe the person has committed a:  
13 (A) battery resulting in death under IC 35-42-2-1(a)(5);  
14 (B) battery resulting in bodily injury under IC 35-42-2-1; or  
15 (C) domestic battery under IC 35-42-2-1.3;

16 ~~The officer may use an affidavit executed by an individual alleged~~  
17 ~~to have direct knowledge of the incident alleging the elements of~~  
18 ~~the offense of battery to establish probable cause;~~

19 ~~(6) probable cause to believe that the person violated~~  
20 ~~IC 35-46-1-15.1 (invasion of privacy);~~

21 ~~(7) probable cause to believe that the person has committed~~  
22 ~~stalking (IC 35-45-10);~~

23 ~~(8) (6) probable cause to believe that the person violated~~  
24 ~~IC 35-47-2-1 (carrying a handgun without a license) or~~  
25 ~~IC 35-47-2-22 (counterfeit handgun license); or~~

26 ~~(9) (7) probable cause to believe that the person is violating or has~~  
27 ~~violated an order issued under IC 35-50-7.~~

28 (b) **A law enforcement officer shall arrest a person when the**  
29 **officer has probable cause to believe the person has violated**  
30 **IC 35-46-1-15.1.**

31 (c) A person who:

- 32 (1) is employed full time as a federal enforcement officer;  
33 (2) is empowered to effect an arrest with or without warrant for a  
34 violation of the United States Code; and  
35 (3) is authorized to carry firearms in the performance of the  
36 person's duties;

37 may act as an officer for the arrest of offenders against the laws of this  
38 state where the person reasonably believes that a felony has been or is  
39 about to be committed or attempted in the person's presence.

40 SECTION 48. IC 35-33-1-1.5 IS ADDED TO THE INDIANA  
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 2002]: **Sec. 1.5. (a) A law enforcement officer**

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1 responding to the scene of an alleged crime involving domestic or  
 2 family violence shall use all reasonable means to prevent further  
 3 violence, including the following:

4 (1) Confiscating firearms, ammunition, and deadly weapons,  
 5 as described in subsection (b).

6 (2) Transporting or obtaining transportation for the alleged  
 7 victim and each child to a designated safe place to meet with  
 8 a domestic violence counselor, local family member, or friend.

9 (3) Assisting the alleged victim in removing toiletries,  
 10 medication, and necessary clothing.

11 (4) Giving the alleged victim immediate and written notice of  
 12 the rights under IC 35-40.

13 (b) A law enforcement officer may confiscate and remove a  
 14 firearm, ammunition, or a deadly weapon from the scene if the law  
 15 enforcement officer has:

16 (1) probable cause to believe that a crime involving domestic  
 17 or family violence has occurred; and

18 (2) observed the firearm, ammunition, or deadly weapon at  
 19 the scene during the response.

20 (c) If a firearm, ammunition, or a deadly weapon is removed  
 21 from the scene under subsection (b), the law enforcement officer  
 22 shall:

23 (1) furnish the owner of the firearm, ammunition, or deadly  
 24 weapon with information on the process for retaking  
 25 possession of each item removed; and

26 (2) provide for the safe storage of the firearm, ammunition, or  
 27 deadly weapon during the pendency of a proceeding related  
 28 to the alleged act of domestic or family violence.

29 (d) At the conclusion of a proceeding regarding the alleged  
 30 crime involving domestic or family violence, the owner may retake  
 31 possession of the confiscated firearm, ammunition, or deadly  
 32 weapon by filing a written motion specifically describing each item  
 33 and requesting its return. The court in which the proceeding  
 34 regarding the alleged crime involving domestic or family violence  
 35 is heard shall conduct the hearing. The hearing must occur not  
 36 later than fifteen (15) days after the conclusion of the underlying  
 37 proceeding. The court shall provide written notice of the hearing  
 38 to the alleged victim of domestic or family violence, the prosecuting  
 39 attorney, and the law enforcement agency that has control of the  
 40 firearm, ammunition, or deadly weapon. The scope of the hearing  
 41 must be limited to establishing if the owner:

42 (1) is subject to any state law, federal law, or court order that

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1 precludes the person from owning or possessing a firearm,  
2 ammunition, or a deadly weapon; and

3 (2) continues to represent a credible threat to the safety of the  
4 alleged victim or to the public in general.

5 (e) If a court does not make a finding under subsection (d)(1) or  
6 (d)(2), the court shall issue a written order directing the law  
7 enforcement agency to return the requested property to the owner.

8 (f) A law enforcement agency may not release a firearm,  
9 ammunition, or a deadly weapon without a court order granting  
10 the release. The law enforcement agency may charge the owner a  
11 reasonable fee for the storage of a firearm, ammunition, and a  
12 deadly weapon taken under this section or by a court order. The  
13 fee may not exceed the actual cost incurred by the law enforcement  
14 agency for the storage of each item.

15 (g) A law enforcement agency, if due care is exercised, may not  
16 be held liable for alleged damage or deterioration due to storage or  
17 transportation of a firearm, ammunition, or a deadly weapon held  
18 by a law enforcement agency.

19 (h) An act or omission of a law enforcement officer, unless a  
20 result of gross negligence or willful misconduct, while rendering  
21 emergency care or assistance to an alleged victim of a crime  
22 involving domestic or family violence, including transportation of  
23 an alleged victim, may not impose civil liability on the law  
24 enforcement officer or the law enforcement officer's supervisors or  
25 employer if the care or assistance is rendered in good faith.

26 SECTION 49. IC 35-33-8-3.3 IS ADDED TO THE INDIANA  
27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2002]: **Sec. 3.3. A person who is arrested for  
29 a crime involving domestic or family violence may be held for not  
30 more than forty-eight (48) hours before a court holds a hearing on  
31 bail.**

32 SECTION 50. IC 35-38-1-7.1, AS AMENDED BY P.L.280-2001,  
33 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2002]: **Sec. 7.1. (a) In determining what sentence to impose  
35 for a crime, the court shall consider:**

- 36 (1) the risk that the person will commit another crime;  
37 (2) the nature and circumstances of the crime committed;  
38 (3) the person's:  
39 (A) prior criminal record;  
40 (B) character; and  
41 (C) condition;  
42 (4) whether the victim of the crime was less than twelve (12)

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1 years of age or at least sixty-five (65) years of age;

2 (5) whether the person committed the offense in the presence or  
3 within hearing of a person who is less than eighteen (18) years of  
4 age who was not the victim of the offense;

5 (6) whether the person violated a protective order issued against  
6 the person under IC 31-15, ~~or IC 31-16, or IC 34-26-5~~ (or  
7 IC 31-1-11.5, ~~before its repeal~~) or IC 34-26-2, or IC 34-4-5.1  
8 before ~~its~~ **their** repeal); and

9 (7) any oral or written statement made by a victim of the crime.

10 (b) The court may consider the following factors as aggravating  
11 circumstances or as favoring imposing consecutive terms of  
12 imprisonment:

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

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

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

19 (4) Imposition of a reduced sentence or suspension of the  
20 sentence and imposition of probation would depreciate the  
21 seriousness of the crime.

22 (5) The victim of the crime was less than twelve (12) years of age  
23 or at least sixty-five (65) years of age.

24 (6) The victim of the crime was mentally or physically infirm.

25 (7) The person committed a forcible felony while wearing a  
26 garment designed to resist the penetration of a bullet.

27 (8) The person committed a sex crime listed in subsection (e) and:  
28 (A) the crime created an epidemiologically demonstrated risk  
29 of transmission of the human immunodeficiency virus (HIV)  
30 and involved the sex organ of one (1) person and the mouth,  
31 anus, or sex organ of another person;

32 (B) the person had knowledge that the person was a carrier of  
33 HIV; and

34 (C) the person had received risk counseling as described in  
35 subsection (g).

36 (9) The person committed an offense related to controlled  
37 substances listed in subsection (f) if:

38 (A) the offense involved:

39 (i) the delivery by any person to another person; or

40 (ii) the use by any person on another person;

41 of a contaminated sharp (as defined in IC 16-41-16-2) or other  
42 paraphernalia that creates an epidemiologically demonstrated

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

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- 1 the crime for the injury, damage, or loss sustained.
- 2 (10) Imprisonment of the person will result in undue hardship to
- 3 the person or the dependents of the person.
- 4 (11) The person was convicted of a crime involving the use of
- 5 force against a person who had repeatedly inflicted physical or
- 6 sexual abuse upon the convicted person and evidence shows that
- 7 the convicted person suffered from the effects of battery as a
- 8 result of the past course of conduct of the individual who is the
- 9 victim of the crime for which the person was convicted.
- 10 (d) The criteria listed in subsections (b) and (c) do not limit the
- 11 matters that the court may consider in determining the sentence.
- 12 (e) For the purposes of this article, the following crimes are
- 13 considered sex crimes:
- 14 (1) Rape (IC 35-42-4-1).
- 15 (2) Criminal deviate conduct (IC 35-42-4-2).
- 16 (3) Child molesting (IC 35-42-4-3).
- 17 (4) Child seduction (IC 35-42-4-7).
- 18 (5) Prostitution (IC 35-45-4-2).
- 19 (6) Patronizing a prostitute (IC 35-45-4-3).
- 20 (7) Incest (IC 35-46-1-3).
- 21 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).
- 22 (f) For the purposes of this article, the following crimes are
- 23 considered offenses related to controlled substances:
- 24 (1) Dealing in or manufacturing cocaine, a narcotic drug, or
- 25 methamphetamine (IC 35-48-4-1).
- 26 (2) Dealing in a schedule I, II, or III controlled substance
- 27 (IC 35-48-4-2).
- 28 (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- 29 (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 30 (5) Possession of cocaine, a narcotic drug, or methamphetamine
- 31 (IC 35-48-4-6).
- 32 (6) Possession of a controlled substance (IC 35-48-4-7).
- 33 (7) Dealing in paraphernalia (IC 35-48-4-8.5).
- 34 (8) Possession of paraphernalia (IC 35-48-4-8.3).
- 35 (9) Offenses relating to registration (IC 35-48-4-14).
- 36 (g) For the purposes of this section, a person received risk
- 37 counseling if the person had been:
- 38 (1) notified in person or in writing that tests have confirmed the
- 39 presence of antibodies to the human immunodeficiency virus
- 40 (HIV) in the person's blood; and
- 41 (2) warned of the behavior that can transmit HIV.
- 42 SECTION 51. IC 35-41-1-6.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2002]: **Sec. 6.5. "Crime involving domestic**  
 3 **or family violence"** means a crime that occurs when a family or  
 4 **household member commits, attempts to commit, or conspires to**  
 5 **commit any of the following against another family or household**  
 6 **member:**

- 7 (1) A homicide offense under IC 35-42-1.  
 8 (2) A battery offense under IC 35-42-2.  
 9 (3) Kidnapping or confinement under IC 35-42-3.  
 10 (4) A sex offense under IC 35-42-4.  
 11 (5) Robbery under IC 35-42-5.  
 12 (6) Arson or mischief under IC 35-43-1.  
 13 (7) Burglary or trespass under IC 35-43-2.  
 14 (8) Disorderly conduct under IC 35-45-1.  
 15 (9) Intimidation or harassment under IC 35-45-2.  
 16 (10) Voyeurism under IC 35-45-4.  
 17 (11) Stalking under IC 35-45-10.  
 18 (12) An offense against family under IC 35-46-1-2 through  
 19 IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.

20 SECTION 52. IC 35-41-1-10.7 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE JULY 1, 2002]: **Sec. 10.7. "Family or household**  
 23 **member"** means:

- 24 (1) a person who is a current or former spouse;  
 25 (2) a person who is dating or has dated;  
 26 (3) a person who is engaged or was engaged in a sexual  
 27 relationship;  
 28 (4) a person who is related by blood or adoption;  
 29 (5) a person who is related or was related by marriage;  
 30 (6) a person who has an established legal relationship or  
 31 previously established a legal relationship:  
 32 (A) as a guardian;  
 33 (B) as a ward;  
 34 (C) as a custodian;  
 35 (D) as a foster parent; or  
 36 (E) in a capacity similar to those listed in clauses (A)  
 37 through (D);  
 38 (7) a person who has a child in common; and  
 39 (8) a minor child of a person in a relationship described in  
 40 subdivisions (1) through (7).

41 SECTION 53. IC 35-41-1-22 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 22. (a) "Person"** means

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1 a human being, corporation, limited liability company, partnership,  
2 unincorporated association, or governmental entity.

3 **(b) "Person", for purposes of section 10.7 of this chapter, means**  
4 **an adult or a minor.**

5 SECTION 54. IC 35-42-2-1.3, AS AMENDED BY P.L.47-2000,  
6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2002]: Sec. 1.3. (a) A person who knowingly or intentionally  
8 touches a person who:

- 9 (1) is or was a spouse of the other person;
- 10 (2) is or was living as if a spouse of the other person; or
- 11 (3) has a child in common with the other person;

12 in a rude, insolent, or angry manner ~~that results in bodily injury to the~~  
13 ~~person described in subdivision (1), (2), or (3)~~ commits domestic  
14 battery, a ~~Class A~~ **Class B** misdemeanor.

15 ~~However, the offense is~~ (b) **An offense under subsection (a) is:**

- 16 **(1) a Class A misdemeanor if it results in bodily injury to the**
- 17 **person described in subsection (a)(1) through (a)(3); and**
- 18 **(2) a Class D felony if it results in bodily injury to the person**
- 19 **described in subsection (a)(1) through (a)(3) and if the person**
- 20 **who commits the domestic battery has a previous, unrelated**
- 21 **conviction under this section or under a substantially similar**
- 22 **statute in another state (or IC 35-42-2-1(a)(2)(E) before its**
- 23 **repeal).**

24 SECTION 55. IC 35-45-10-5, AS AMENDED BY P.L.280-2001,  
25 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2002]: Sec. 5. (a) A person who stalks another person  
27 commits stalking, a Class D felony.

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

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

37 (2) A protective order **to prevent domestic or family violence,**  
38 **a no contact order,** or other judicial order under any of the  
39 following statutes has been issued by the court to protect the same  
40 victim or victims from the person and the person has been given  
41 actual notice of the order:

- 42 (A) IC 31-15 ~~IC 31-16; IC 31-17;~~ **and IC 34-26-5** or

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- 1 IC 31-1-11.5 before its repeal (dissolution of marriage **and**  
 2 legal separation) ~~child support, and child custody~~).
- 3 (B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal  
 4 (delinquent children and children in need of services).
- 5 (C) IC 31-32 or IC 31-6-7 before its repeal (procedure in  
 6 juvenile court).
- 7 (D) **IC 34-26-5 or IC 34-26-2 or and IC 34-4-5.1** before its  
 8 **their** repeal (protective order to prevent abuse).
- 9 **(E) IC 34-26-6 (workplace violence restraining orders).**
- 10 (3) The person's stalking of another person violates an order  
 11 issued as a condition of pretrial release, including release on bail  
 12 or personal recognizance, or pretrial diversion ~~that orders the~~  
 13 ~~person to refrain from any direct or indirect contact with another~~  
 14 ~~person~~ if the person has been given actual notice of the order.
- 15 (4) The person's stalking of another person violates ~~an a~~ **no**  
 16 **contact** order issued as a condition of probation ~~that orders the~~  
 17 ~~person to refrain from any direct or indirect contact with another~~  
 18 ~~person~~ if the person has been given actual notice of the order.
- 19 (5) The person's stalking of another person violates a protective  
 20 order issued under ~~IC 31-14-16~~ **IC 31-14-16-1 and IC 34-26-5** in  
 21 a paternity action if the person has been given actual notice of the  
 22 order.
- 23 (6) The person's stalking of another person violates an order  
 24 issued in another state that is substantially similar to an order  
 25 described in subdivisions (2) through (5) if the person has been  
 26 given actual notice of the order.
- 27 (7) The person's stalking of another person violates an order that  
 28 is substantially similar to an order described in subdivisions (2)  
 29 through (5) and is issued by an Indian:  
 30 (A) tribe;  
 31 (B) band;  
 32 (C) pueblo;  
 33 (D) nation; or  
 34 (E) organized group or community, including an Alaska  
 35 Native village or regional or village corporation as defined  
 36 in or established under the Alaska Native Claims Settlement  
 37 Act (43 U.S.C. 1601 et seq.);  
 38 that is recognized as eligible for the special programs and services  
 39 provided by the United States to Indians because of their special  
 40 status as Indians if the person has been given actual notice of the  
 41 order.
- 42 (8) A criminal complaint of stalking that concerns an act by the

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1 person against the same victim or victims is pending in a court  
2 and the person has been given actual notice of the complaint.

3 (c) The offense is a Class B felony if:

4 (1) the act or acts were committed while the person was armed  
5 with a deadly weapon; or

6 (2) the person has an unrelated conviction for an offense under  
7 this section against the same victim or victims.

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

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

22 SECTION 56. IC 35-46-1-15.1, AS AMENDED BY P.L.1-2001,  
23 SECTION 42, AND AS AMENDED BY P.L.280-2001, SECTION 53,  
24 IS AMENDED AND CORRECTED TO READ AS FOLLOWS  
25 [EFFECTIVE JULY 1, 2002]: Sec. 15.1. (a) A person who knowingly  
26 or intentionally violates:

27 (1) a protective order **to prevent domestic or family violence**  
28 issued under

29 (A) ~~IC 34-26-2-12(1)(A)~~ (or ~~IC 34-4-5.1-5(a)(1)(A)~~ before its  
30 repeal);

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

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

35 that orders the respondent to refrain from abusing, harassing, or  
36 disturbing the peace of the petitioner; **IC 34-26-5 (or, if the**  
37 **order involved a family or household member, under**  
38 **IC 34-26-2 or IC 34-4-5.1-5 before their repeal);**

39 (2) an emergency **ex parte** protective order issued under  
40 ~~IC 34-26-2-6(1)~~, ~~IC 34-26-2-6(2)~~, ~~IC 34-26-2-6(3)~~, (or  
41 ~~IC 34-4-5.1-2.3(a)(1)(A)~~, ~~IC 34-4-5.1-2.3(a)(1)(B)~~, or  
42 ~~IC 34-4-5.1-2.3(a)(1)(C)~~ before their repeal) that orders the

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1 respondent to refrain from abusing, harassing, or disturbing the  
 2 peace of the petitioner; **IC 34-26-5** (or, if the order involved a  
 3 family or household member, an emergency order issued  
 4 under **IC 34-26-2** or **IC 34-4-5.1** before their repeal);

5 (3) a temporary workplace violence restraining order issued  
 6 under ~~IC 31-15-4-3(2)~~ or ~~IC 31-15-4-3(3)~~ (or  
 7 ~~IC 31-1-11.5-7(b)(2)~~; ~~IC 31-1-11.5-7(b)(3)~~; ~~IC 31-16-42(a)(2)~~;  
 8 ~~IC 31-16-4-2(a)(2)~~; or ~~IC 31-16-42(a)(3)~~ ~~IC 31-16-4-2(a)(3)~~  
 9 before their repeal) that orders the respondent to refrain from  
 10 abusing, harassing, or disturbing the peace of the petitioner;  
 11 **IC 34-26-6**;

12 (4) ~~an a no contact~~ order in a dispositional decree issued under  
 13 IC 31-34-20-1, IC 31-37-19-1, or ~~IC 31-37-19-5~~ **IC 31-37-5-6** (or  
 14 IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order  
 15 issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that  
 16 orders the person to refrain from direct or indirect contact with a  
 17 child in need of services or a delinquent child;

18 (5) ~~an a no contact~~ order issued as a condition of pretrial release,  
 19 including release on bail or personal recognizance, or pretrial  
 20 diversion; that orders the person to refrain from any direct or  
 21 indirect contact with another person;

22 (6) ~~an a no contact~~ order issued as a condition of probation; that  
 23 orders the person to refrain from any direct or indirect contact  
 24 with another person;

25 (7) a protective order to prevent domestic or family violence  
 26 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before  
 27 their repeal); that orders the respondent to refrain from abusing,  
 28 harassing, or disturbing the peace of the petitioner;

29 (8) a protective order to prevent domestic or family violence  
 30 issued under ~~IC 31-14-16~~ **IC 31-14-16-1** in a paternity action;

31 (9) a protective no contact order issued under ~~IC 31-34-17~~  
 32 **IC 31-34-25** in a child in need of services proceeding or under  
 33 ~~IC 31-37-16~~ **IC 31-37-25** in a juvenile delinquency proceeding;  
 34 that orders the respondent to refrain from having direct or indirect  
 35 contact with a child; or

36 (10) an order issued in ~~a~~ another state ~~other than Indiana~~ that is  
 37 substantially similar to an order described in subdivisions (1)  
 38 through (9); or

39 (11) an order that is substantially similar to an order described  
 40 in subdivisions (1) through (9) and is issued by an Indian:

41 (A) tribe;

42 (B) band;

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1 (C) pueblo;

2 (D) nation; or

3 (E) organized group or community, including an Alaska  
4 Native village or regional or village corporation as defined in  
5 or established under the Alaska Native Claims Settlement Act  
6 (43 U.S.C. 1601 et seq.);

7 that is recognized as eligible for the special programs and  
8 services provided by the United States to Indians because of their  
9 special status as Indians;

10 commits invasion of privacy, a ~~Class B~~ **Class A** misdemeanor.  
11 However, the offense is a ~~Class A misdemeanor~~ **Class D felony** if the  
12 person has a prior unrelated conviction for an offense under this  
13 section.

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

22 (1) at least forty-eight (48) hours of the sentence must be served  
23 consecutively; and

24 (2) the entire five (5) day sentence must be served within six (6)  
25 months after the date of sentencing.

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

28 SECTION 57. IC 35-46-1-20, AS ADDED BY P.L.280-2001,  
29 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2002]: Sec. 20. A law enforcement officer shall enforce a  
31 foreign protection order (as defined in IC 34-6-2-48.5) in conformity  
32 with the procedures in ~~IC 34-26-2.5-10~~. **IC 34-26-5-17.**

33 SECTION 58. IC 35-47-4-6 IS ADDED TO THE INDIANA CODE  
34 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
35 1, 2002]: Sec. 6. (a) As used in this section, "**domestic violence  
36 offender**" means a person who has been convicted of a crime  
37 involving domestic or family violence or who is a respondent  
38 subject to a protection order issued under IC 34-26-5.

39 (b) A domestic violence offender who knowingly possesses a  
40 firearm or ammunition commits a **Class D felony**.

41 SECTION 59. THE FOLLOWING ARE REPEALED [EFFECTIVE  
42 JULY 1, 2002]: IC 5-2-9-1.5; IC 5-2-9-1.6; IC 5-2-9-6.3;



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1 IC 31-14-16-2; IC 31-14-16-3; IC 31-14-16-4; IC 31-14-16-5;  
 2 IC 31-14-16-6; IC 31-14-16-7; IC 31-14-16-8; IC 31-15-4-16;  
 3 IC 31-15-5-2; IC 31-15-5-3; IC 31-15-5-4; IC 31-15-5-5; IC 31-15-5-6;  
 4 IC 31-15-5-7; IC 31-15-5-8; IC 31-15-5-9; IC 31-15-5-10;  
 5 IC 31-15-5-11; IC 31-34-17; IC 31-37-16; IC 33-17-1-11; IC 33-19-4.5;  
 6 IC 34-6-2-1; IC 34-6-2-86.4; IC 34-26-2; IC 34-26-2.5.

7 SECTION 60. [EFFECTIVE JULY 1, 2002] (a) **IC 35-46-1-15.1,**  
 8 **as amended by this act, and IC 35-47-4-6, as added by this act,**  
 9 **apply only to an offense committed after June 30, 2002.**

10 (b) **A protective order issued before July 1, 2002, under**  
 11 **IC 31-34-17, IC 31-37-16, or IC 34-26-2, all as repealed by this act,**  
 12 **remains in effect for the period indicated in the court order**  
 13 **granting the protective order.**

14 (c) **A protective order issued before July 1, 2002, under**  
 15 **IC 31-14-16 or IC 31-15-5, as amended by this act, remains in**  
 16 **effect for the period indicated in the court order granting the**  
 17 **protective order.**

18 (d) **After June 30, 2002, a protected person must use the forms**  
 19 **developed by the division of state court administration under**  
 20 **IC 34-26-5-3, as added by this act, if the person is seeking an**  
 21 **extension or a modification of an order issued under subsection (b)**  
 22 **or (c).**

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